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No. 2365

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United States

# Circuit Court of Appeals

For the Ninth Circuit.

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## **Apostles.** (IN FOUR VOLUMES)

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OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the  
Owners, Officers and Crew of Said Steamship,  
Appellant,

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP  
COMPANY, a Corporation, Claimant of the  
American Steamship "BEAVER," Her En-  
gines, etc.,

Appellee.

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### **VOLUME I.** (Pages 1 to 352, Inclusive.)

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Upon Appeal from the United States District Court  
for the Northern District of California,  
First Division.

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**FILED**

FEB 3 - 1914



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**Statement of Clerk U. S. District Court.**

*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

No. 15,099.

**TITLE OF CAUSE.**

OLAF LIE, Master of the Norwegian Steamship  
“SELJA,” on Behalf of Himself and the  
Owners, Officers, and Crew of Said Steamship,  
Libelants,

vs.

The American Steamship “BEAVER,” Her En-  
gines, Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances, and Against All  
Persons Intervening for Their Interests in the  
Same,

Libelee. [1\*]

**PARTIES.**

Libelants: Olaf Lie, master of the Norwegian Steam-  
ship “Selja,” on behalf of himself and the own-  
ers, officers, and crew of said steamship.

Intervening Libelants: Olaf Lie, master of the Nor-  
wegian Steamship “Selja,” as bailee of the cargo  
of said steamship, on behalf of the owners, un-  
derwriters, and all parties interested in said  
cargo.

St. Paul Fire and Marine Fire Insurance Com-  
pany, a corporation.

Libelee: The American steamship “Beaver,” her  
engines, boilers, tackle, apparel, furniture, boats,  
and appurtenances.

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\*Page number appearing at foot of page of original certified Record.

Claimants: San Francisco and Portland Steamship Company, a corporation, as to Steamship "Beaver."

PROCTORS.

for

Libelants: Messrs. McClanahan and Derby, San Francisco, California.

Intervening Libelants: Louis T. Hengstler, Esquire, San Francisco, California, for Bailee. [2] F. R. Wall, Esquire, San Francisco, California, for St. Paul Fire and Marine Insurance Company, a corporation.

Claimants: William Denman, Esquire, and Messrs. Page, McCutchen, Knight and Olney, for San Francisco and Portland Steamship Company, a corporation, all of San Francisco, California.

PROCEEDINGS.

1910.

November 26. Filed verified libel for damages. Issued monition for the attachment of the American steamer "Beaver," her engines, boilers, etc., and which said monition was afterwards on the 28th day of November, 1910, returned and filed with Return of the United States Marshal endorsed thereon as follows:

"In obedience to the within monition, I attached the American steamer 'Beaver' therein described, on the 26th day of No-



vember, 1910, and have given due notice to all persons claiming the same that this Court will, on the sixth day [3] of December, 1910 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, I further certify that I handed to and left copy hereof with R. B. Seike, the officer in charge of said American steamer 'Beaver,' on board of said steamer 'Beaver' on the dry-dock at Hunter's Point, in San Francisco, California, and placed W. H. Chalmers, as keeper in charge thereof.

C. T. ELLIOTT,

United States Marshal.

By B. F. Towle,

Deputy.

San Francisco, Cal., Nov. 28th, 1910."

December 3. Filed verified libel of intervention (Olaf Lie as bailee).

Issued monition in accordance with said libel of intervention, which was afterwards, on the 3d day of December, 1910, returned and filed with the return of the

United States Marshal endorsed thereon as follows:

"I hereby certify and return that on the 3d day of December, 1910, I received the within monition, and said American steamship 'Beaver,' being already in my custody, under and by virtue of a Writ of Monition issued out of the within-entitled court on the 26th day of November, 1910, I made no further seizure of said vessel. I further return, that I handed to and left with Messrs. McClanahan and Derby, the proctors for libelant in the original case, a copy of the within [4] monition, personally, at San Francisco, on the 3d day of December, 1910, and whose admission of service hereof and also the admission of service hereof by Messrs. Knight and Heggerty and Charles Page and William Denman, proctors for the claimant, are also endorsed hereon.

C. T. ELLIOTT,

U. S. Marshal.

By Geo. H. Burnham,

Chief Office Deputy.



San Francisco, California, December 3d, 1910.

Due service of the within monition is hereby admitted this 3d day of November, 1910.

KNIGHT & HEGGERTY,  
CHAS. PAGE,  
WILLIAM DENMAN,

Proctors for Claimant.

McCLANAHAN & DERBY,

Proctors for Libelant in Original Suit."

December 6. Filed claim of San Francisco and Portland Steamship Company, a corporation, to the American steamship "Beaver," her tackle, apparel, and furniture (as to original libel).

December 6. Filed claim of San Francisco and Portland Steamship Company, a corporation, to the American steamship "Beaver," her tackle, apparel and furniture (as to libel in intervention).

December 6. Filed admiralty stipulation (bond) in the [5] sum of \$275,000.00, for the release of the American steamship "Beaver" on the original libel.

December 6. Filed admiralty stipulation (bond) in the sum of \$450,000.00, for the release of the American steamship "Beaver," on the libel of intervention.

December 12. Filed stipulation as to personal effects of steward and carpenter of S. S. "Selja."

December 13. Filed depositions of Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, taken before United States Commissioner, Jas. P. Brown.

1911.

January 18. Filed answer of San Francisco and Portland Steamship Company, a corporation (as to original libel).

February 3. Filed answer of San Francisco and Portland Steamship Company, a corporation (as to libel of intervention).

February 28. The District Court of the United States for the Northern District of California, the Honorable John J. De Haven, presiding, granted the motion permitting the St. Paul Fire and Marine Insurance Company, to intervene in this Court.

February 28. Filed petition and verified libel of intervention of St. Paul Fire and Marine Insurance Company, a corporation, for the sum of \$297.-60 and interest.

April 25. Filed answer of San Francisco and Portland Steamship Company, a

corporation (to the libel of intervention of St. Paul Fire and Marine Insurance Company).

[6]

- May 12. The District Court of the United States for the Northern District of California, the Honorable John J. De Haven, Judge, presiding this day granted the motion for and ordered that the case of Olaf Lie, et al., etc., vs. The American Steamship "Beaver," etc., No. 15,099, and the case of Portland and Asiatic Steamship Company, etc., vs. San Francisco and Portland Steamship Company, etc., No. 15,130, be consolidated for trial, and that said cases as consolidated be referred to United States Commissioner, Jas. P. Brown, to take the evidence to be offered by the respective parties and report the same to this Court.

1912.

- January 18. The cases as heretofore consolidated came on for hearing on this day in the District Court of the United States for the Northern District of California at the courtroom thereof in the City and County of San Francisco, before the Honorable R. S. Bean, Judge, presiding

in said court, and were continued from day to day until January 24th, when said cases were submitted for decision.

- June 26. Filed opinion of R. S. Bean.
- September 2. Filed interlocutory decree, ordering cases referred to United States Commissioner, Jas. P. Brown, to ascertain and compute the damages sustained by the respective parties. [7]

1913.

- March 27. Filed dismissal (by F. R. Wall, proctor) of the libel of intervention filed by the St. Paul Fire and Marine Insurance Company.
- May 21. Filed stipulation of proctor as to respective amounts and damages suffered by each of the owners, or underwriters, of the cargo of the vessel in question.
- August 29. Filed stipulation as to the amount of damages suffered by the parties represented by Olaf Lie, etc.
- September 22. Filed stipulation of proctors for the setting aside of order heretofore entered (interlocutory decree), referring the cases to the United States Commissioner, Jas. P. Brown, etc., and that the cases be submitted to the Honorable R. S. Bean.

- November 25. Filed memorandum opinion awarding damages, etc.
- December 5. Filed final decree in original suit.
- December 9. Filed notice of appeal.
- December 11. Filed testimony taken before United States Commissioner Jas. P. Brown.
- December 12. Filed final decree in intervention suit (on behalf of cargo owners), awarding damages in the sum of \$260,344.41, and interest against the steamship "Beaver," etc.
- December 13. Filed bond on appeal.
- December 19. Filed assignment of errors. [8]
- 

*In the District Court of the United States in and for the Northern District of California, First Division.*

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the  
Owners, Officers and Crew of Said Steamship,  
Libelant,

vs.

The American Steamship "BEAVER," Her Engines, etc.,

Libelee,

SAN FRANCISCO & PORTLAND STEAMSHIP  
COMPANY, a Corporation,

Claimant.

**Praecipe for Transcript on Appeal.**

To the Clerk of the Above-entitled Court.

Please prepare transcript of record in this cause on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and include in said transcript the following:

1. Statement required by Admiralty Rule 4, Subdivision 1, of said Circuit Court of Appeals.

2. All the pleadings together with the exhibits annexed thereto in the above cause, all opinions of the Court on questions arising in said cause, the interlocutory and final decrees therein, and all stipulations and orders in said cause, excepting, however, the papers omitted by stipulation of the parties dated December 8th, 1913. Said papers so to be transcribed are, we understand, as follows:

(a) Original libel filed November 26, 1910. [9]

(b) Libel in intervention filed December 3, 1910.

(c) Answer to libel filed January 18, 1911.

(d) Answer to libel in intervention filed February 3, 1911.

(e) Stipulation as to value of personal affects of steward and carpenter of the S. S. "Selja" filed December 12, 1910.

(f) Stipulation as to the effects of wife and children of master of S. S. "Selja" filed June 9, 1911.

(g) Stipulation as to depositions of officers of S. S. "Selja" filed June 9, 1911.

(h) Opinion of Bean, J., filed June 26, 1912.

(i) Interlocutory decree filed September 2, 1912.

(j) Stipulation as to cargo damages filed May 31, 1913.



(k) Stipulation as to damages and facts filed August 29, 1913.

(l) Stipulation and orders referring case to Bean, J., etc., filed September 22, 1913.

(m) Opinion of Bean, J., filed November 25, 1913.

(n) Final decree filed December 5, 1913.

3. Court minutes of proceedings and orders in the above cause.

4. All testimony and depositions taken in the said cause.

5. The original exhibits introduced in evidence in said cause as per stipulation of counsel dated December 8, 1913, and order made thereon.

6. Stipulation of counsel as to apostles on appeal dated December 8, 1913.

7. Stipulation of counsel as to costs dated December 6, 1913.

8. Notice of appeal, bond on appeal, notice of filing bond on appeal and assignment of errors.

9. The following papers in case No. 15,130 consolidated for trial with the above cause, to wit: Libel and interrogatories, answer, stipulation for amendment of libel and amendment of libel. [10]

10. This praecipe.

Dated: December 9th, 1913.

McCLANAHAN & DERBY,  
Proctors for Libelant.

[Endorsed]: Filed Dec. 9, 1913. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [11]

*In the District Court of the United States for the  
Northern District of California.*

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the  
Owners, Officers and Crew of Said Steamship,  
Libelant,

vs.

The American Steamship "BEAVER," Her En-  
gines, Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances,  
Libelee.

**Libel in Rem.**

To the Honorable JOHN J. DE HAVEN, Judge of  
the District Court of the United States for the  
Northern District of California:

The libel of Olaf Lie, master of the Norwegian steamship "Selja," on his own behalf and on behalf of the owners, officers and crew of said steamship against the American steamship "Beaver," her engines, boilers, tackle, apparel, boats and appurtenances, and against all persons intervening for their interests in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all times hereinafter mentioned libelant was a subject of the Kingdom of Norway and was the master of the Norwegian steamship "Selja," which said steamship, libelant is informed and believes and therefore alleges, was at said times, and



before the collision hereinafter mentioned, of the value of Two Hundred and Fifty Thousand Dollars (\$250,000). [12]

## II.

That the American steamship "Beaver" herein proceeded against is now in the Northern District of California and within the jurisdiction of this Honorable Court.

## III.

That on Tuesday, the 22d day of November, 1910, a collision occurred between the said steamships "Selja" and "Beaver" on the high seas near Point Reyes on the coast of California, by reason of which the said steamship "Selja" was sunk and, together with her cargo and the effects of her master, officers, crew, was totally lost.

## IV.

That the following are the circumstances of the said collision: On the said 22d day of November the said steamship "Selja" was on a voyage from the port of Yokohama, in Japan, to the Port of San Francisco, in the State of California. At about the hour of 1 o'clock A. M. on said day, when about 70 miles off Point Reyes on the coast of California, she encountered a dense fog, which did not lift any *any* time before said collision, which occurred but a short interval of time after 3:15 P. M. of said day. That at about the hour of 2:30 P. M. the fog-horn on Point Reyes was heard off the port bow at a seeming distance of about 2 miles, and at 2:50 P. M. the said fog-horn was heard right abeam of the "Selja," and her course was then changed from south 60°

east to south  $65^{\circ}$  east magnetic, heading for the light-ship off the Golden Gate. Her speed at this time was about 6 miles per hour; her master and third officer were on the bridge; a competent man was on the lookout and another at the wheel, and they, as well as the rest of the crew who were variously employed in their respective duties, were faithfully attending thereto; soundings were being taken and the vessel's [13] fog-whistle was being blown, as required by the regulations for avoiding collisions at sea, up to the time of the collision itself hereinafter described. At about 3 o'clock P. M. a deep distant whistle was heard seemingly dead ahead of the "Selja" and apparently a long way off, which afterwards proved to be that of the aforesaid steamship "Beaver" outward bound from the port of San Francisco on one of her regular voyages from that port to the port of Portland, in the State of Oregon, but that at the time libelant could not tell whether the same was the whistle of a steamer or not. Said whistle was at once answered by a long blast of the "Selja's" whistle. The whistle of the "Beaver" was repeated at regular intervals of about a minute but seemingly nearer, until at about 3:05 o'clock P. M. the "Selja's" engines were put at slow speed. The approaching "Beaver's" whistle continuing to grow nearer and clearer and a little off the "Selja's" port bow, at 3:10 P. M. the "Selja's" and her course was still south  $65^{\circ}$  east, and this engines were stopped. At the time her engines were stopped, she was making about 3 knots per hour, course was not changed, but after the engines were

stopped and at 3:15 P. M. the vessel had swung about one point to starboard. The fog was still dense; there was but little wind and a westerly swell; the fog-whistle of the "Selja" had been regularly answering that of the "Beaver" up to this time. Under these conditions and circumstances, the "Beaver" suddenly appeared through the fog at a distance of about 300 yards, and about 2 points on the "Selja's" bow, coming at a very high rate of speed, to wit, at a speed of eleven knots an hour or more, and heading for the port side of the "Selja." The master of the "Selja" at once ordered his engines full speed astern at the same time giving three blasts of her whistle, and her engines were put full speed astern, and the steamship began to gather some sternway and her bow began to swing more to starboard under the [14] effect of the reverse movement of her engines, but the "Beaver," without apparently checking her speed or changing her course, struck the "Selja" on the port side between the forward and main hatch, and cut her way through the steel plates and cargo of the "Selja" for a distance of about 10 feet or more, and then backed out clear of the "Selja." After the impact, the "Selja" listed heavily to port and water poured into the hole made by the "Beaver's" bow, and the "Selja's" master immediately ordered her boats lowered and her engines stopped. That with the assistance of some of the "Beaver's" boats the master, officers and crew of the "Selja," together with the master's wife and two children, were taken from the "Selja" on board the "Beaver," and a few minutes thereafter

the "Selja" turned turtle and sank. That upon a muster of the "Selja's" crew shortly afterwards, it was found that two were missing, and libelant believes that they went down with the ship. That the sinking of the "Selja" was caused solely by the injuries received in said collision and said steamship, with her cargo and the effects of her master and crew and the effects of the master's wife, were totally lost.

#### V.

That the said collision was in no way due to any fault on the part of the said "Selja," which was at said time, and at all times in this libel mentioned before such collision, in all respects tight, staunch and strong, and in every respect well manned, tackled, appareled and appointed, and having the usual and necessary complement of officers and men, and that said "Selja" was in all respects carefully managed and navigated; but that said collision was wholly due to and brought about by the negligence and incompetency of those in charge of the said "Beaver," by their failure to duly and properly observe the rules and laws of navigation, and not otherwise. [15]

#### VI.

That by reason of said collision libelant alleges that both he himself and the owners, officers and crew of said steamship "Selja," as represented by him in this action, have suffered great damage in the loss of said steamship "Selja," with her equipment, stores, munitions and freight, and the effects of the master and marines on board which were lost and on account of expenses arising out of said collision, in

a sum which libelant is at present unable to state with accuracy, but which, upon information and belief, he avers amounts to the sum of Two Hundred and Seventy-five Thousand Dollars (\$275,000).

VII.

That all and singular the premises are true and are within the admiralty and maritime jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law, according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against said American steamship "Beaver," her engines, boilers, tackle, apparel, furniture, boats and appurtenances, and that all persons claiming any right or interest therein may be cited to appear and answer all and singular the matters aforesaid; that this Honorable Court will be pleased to decree the payment of the damages alleged herein with interest and costs; and that said vessel, her engines, boilers, tackle, apparel, furniture, boats and appurtenances may be condemned and sold to pay the same; and that libelant may have such other and further relief in the premises as in law and in justice he may be entitled to receive.

Dated: November 26th, 1910.

McCLANAHAN & DERBY,  
Proctors for Libelant. [16]

United States of America,  
Northern District of California,—ss.

Olaf Lie, being first duly sworn, on oath deposes and says:

That he is the libelant above named and has full



power and authority to represent all parties on behalf of whom he is suing in the foregoing libel. That he has read the foregoing libel and knows the contents thereof and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

OLAF LIE.

Subscribed and sworn to before me this 26th day of November, 1910.

[Seal]

FRANCIS KRULL,  
Deputy Clerk U. S. District Court, Northern District of California.

[Endorsed]: Filed Nov. 26, 1910. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [17]

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*In the District Court of the United States, in and for  
the Northern District of California.*

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," etc.,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

**Libel of Intervention.**

To the Honorable JOHN J. DE HAVEN, Judge of the District Court of the United States, for the Northern District of California:

Now comes, Olaf Lie, master of the Norwegian steamship "Selja," and, as bailee of the cargo of said steamship, on behalf of the owners, underwriters, and all other parties interested in said cargo, against the American steamship "Beaver," her engines, boilers, tackle, apparel, boats and appurtenances, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

**I.**

That at all times hereinafter mentioned libelant was a subject of the Kingdom of Norway and was the master of the Norwegian steamship "Selja," and bailee of her cargo, which said cargo, libelant is informed and believes and therefore alleges, was at said times, and before the collision hereinafter mentioned, of the value of Four Hundred Thousand Dollars (\$400,000).

**II.**

That the American steamship "Beaver" herein proceeded against is now in the Northern District of California, and within [18] the jurisdiction of this Honorable Court.

**III.**

That on Tuesday, the 22d day of November, 1910, while said steamship "Selja," with full cargo of general merchandise on board, was on the high sea bound

for the port of San Francisco, a collision occurred between the said steamship "Selja" and "Beaver" near Point Reyes, on the coast of California, by reason of which the said steamship "Selja," with her entire cargo, was totally lost.

#### IV.

That the total loss of the cargo, as aforesaid, was caused solely by the injuries received in said collision by said steamship "Selja," and that, as libelant believes and therefore alleges, said injuries were caused by the fault of those in charge of the navigation of said steamship "Beaver."

#### V.

That by reason of said collision, the owners and other persons on whose behalf libelant, as bailee of said cargo, intervenes in said libel, have suffered damage in a sum which, on information and belief, he alleges will probably amount to the sum of Four Hundred Thousand Dollars (\$400,000).

#### VI.

That, as libelant is informed and believes, there are a great number of persons in various parts of the world who are interested in said cargo as owners, insurers or otherwise; that the names and address of said owners or other interested parties are unknown to this libelant; and that he intervenes in the above-entitled cause of action, on behalf of said unknown parties, as bailee of their goods and for the protection of their numerous and scattered interests.

#### VII.

That all and singular the premises are true and



are within the admiralty and maritime jurisdiction of this Court. [19]

WHEREFORE libelant prays that process in due form of law according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue against said American steamship "Beaver," her engines, boilers, tackle, apparel, furniture, boats and appurtenances, and that all persons claiming any right or interest therein may be cited to appear and answer all and singular the matters aforesaid; that this Honorable Court will be pleased to decree the payment of the damages alleged herein with interest and costs; and that said vessel, her engines, boilers, tackle, apparel, furniture, boats and appurtenances may be condemned and sold to pay the same; and that libelant may have such other and further relief in the premises as in law and in justice he may be entitled to receive.

Dated: December 3d, 1910.

LOUIS T. HENGSTLER,

Proctor for Libelant as Bailee of the Cargo of the  
Steamship "Selja." [20]

United States of America,

Northern District of California,—ss.

Olaf Lie, being first duly sworn, on oath deposes and says:

That he is the libelant above named and has full power and authority as bailee of said cargo to represent all parties on behalf of whom he is suing in the foregoing libel. That he has read the foregoing libel and knows the contents thereof, and that the same is true of his own knowledge, except as to

the matters therein stated on information and belief, and as to those matters he believes it to be true.

OLAF LIE.

Subscribed and sworn to before me this 3d day of December, 1910.

[Seal]

JAS. P. BROWN.

[Endorsed]: Filed Dec. 3, 1910. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [21]

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*In the District Court of the United States for the  
Northern District of California.*

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the  
Owners, Officers and Crew of said Steamship,  
Libelant,

vs.

The American Steamship "BEAVER," Her En-  
gines, Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances,

Libelee.

**Stipulation as to Personal Effects of Steward and  
Carpenter of S. S. "Selja."**

It is hereby stipulated and agreed by and between the parties hereto that the value of the personal effects of Wong Hai, steward of the S. S. "Selja," lost in the collision herein, was \$791.10, and that the value of those of Choy Hoy, carpenter on said "Selja," also so lost, was \$284.75, and that no further proof

need be made of said amounts.

Dated: December 6th, 1910.

McCLANAHAN & DERBY,  
Proctors for Libellant.

PAGE, McCUTCHEN, KNIGHT & OLNEY,  
WILLIAM DENMAN,  
Proctors for Claimant.

[Endorsed]: Filed Dec. 12, 1910. Jas. P. Brown,  
Clerk. By M. T. Scott, Deputy Clerk. [22]

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*In the United States District Court, in and for the  
Northern District of California.*

IN ADMIRALTY—No. 15,099.

OLAF LIE, Master of the Norwegian Steamship  
“SELJA,” on Behalf of Himself and the  
Owners, Officers and Crew of Said Steamship,  
Libellant,

vs.

The American Steamship “BEAVER,” Her En-  
gines, Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances,

Libelee.

**Answer of the San Francisco and Portland  
Steamship Company to Libel.**

To the Honorable JOHN J. DE HAVEN, Judge of  
the District Court of the United States for the  
Northern District of California:

The answer of the San Francisco & Portland  
Steamship Company, a corporation, owner of the  
American Steamship “Beaver,” her Claimant here-

in, to the libel of Olaf Lie, master of the Norwegian steamer "Selja," alleges and denies as follows:

I.

Answering article I of the said libel alleges that it is ignorant of the value of the Norwegian steamer "Selja" at the time just before the collision in the libel mentioned, or at any time, wherefore it calls for proof of the said value if the same be pertinent.

II.

Answering article IV of the said libel, claimant alleges that it is ignorant as to all the matters therein alleged concerning the said steamer "Selja" to and including the hour of three P. M., wherefor it calls for proof of the same if the same be pertinent; admits that at three o'clock P. M. the Master of the steamer "Selja" heard the whistle of the steamer "Beaver" ahead of [23] the "Selja," though at what distance and whether or not dead ahead claimant is ignorant, wherefore it calls for proof of the same if the same be pertinent; alleges that it is ignorant as to whether the whistle of the "Beaver" was at once answered by long blasts of the "Selja's" whistle or at all, wherefore it calls for proof of the same if the same be pertinent; admits that the "Selja" did not stop her engines when she heard the whistle of the "Beaver" ahead of her and alleges that the "Selja" continued on her course without stopping her engines for many minutes at a high rate of speed in said fog, to wit, more than six knots per hour, until she was thereby driven forward to the point where her course crossed the course of the "Beaver," where she was allowed to stop dead

in the water; alleges that she lay at a standstill in the water where she had been thus driven across the course of the "Beaver" for many minutes, as claimant is informed and believes and therefore alleges, at least five minutes; admits that at 3:10 P. M. the "Selja's" engines were stopped; alleges that it is ignorant as to how long they had been stopped or as to their speed, if any, between 3:05 and 3:10 P. M., but in that behalf alleges that at 3:10 P. M. the "Selja" was almost at a standstill in the water; denies that she was making three knots per hour at 3:10 P. M., and in that behalf alleges that she was almost at a standstill, as aforesaid; alleges that it is ignorant as to the course of the "Selja," wherefore it calls for proof thereof if the same be pertinent; alleges that it is ignorant as to whether the fog signals of the "Selja" had been regularly, or at all, answering the signal of the "Beaver," save that the "Selja" on two occasions blew a signal of one long blast, once at about 3:13½ P. M. and once about a minute later, wherefore it calls for proof of the other signals, if any, given by the "Selja" if the same be pertinent; denies that the steamer "Beaver" suddenly appeared, or appeared, through the fog at about two points on the "Selja's" bow, and denies that it was going at a very high rate of speed, to [24] wit, a speed of eleven knots an hour or more; denies that the "Beaver" came on without checking her speed or changing her course, and in that behalf alleges that during all the time described and for thirty seconds prior to coming within sight of the "Selja" the engines of the "Beaver" were going at



full speed astern and that her head was swinging rapidly to starboard with the intent of stopping the said "Beaver," or, if impossible, to pass astern of the said steamer "Selja."

### III.

Answering Article V, claimant denies that the said collision was in no way due to any fault on the part of the "Selja," and in this behalf alleges that the collision was due to the acts hereinabove described and to a further fault on the part of the "Selja," to wit, in the fact that her commander, Olaf Lie, was ignorant of Article 16 of the International Rules, which reads as follows:

"Every vessel shall, in a fog, mist, falling snow, or heavy rainstorms, go at a moderate speed, having careful regard for the existing circumstances and conditions.

A steam vessel hearing, apparently forward of her beam, the fog-signal of a vessel the position of which is not ascertained shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over."

by reason whereof he failed to stop his engines when he heard the whistle of the "Beaver" and continued the said vessel in said fog at an excessive speed, to wit, six knots, until he had driven her to the point where the course of the "Beaver" crossed the course of the "Selja," where he permitted her to lie at a standstill under the circumstances hereinbefore described.



IV.

Answering Article VI of the said libel, claimant admits that the owners, officers and crew of the steamer "Selja" suffered damage in the loss of the said steamer, her equipment, stores, munitions and freight, and the effects of the Master and mariners [25] on board; alleges that it is ignorant of the amount of the said loss and damage, wherefore it calls for proof thereof if the same be pertinent.

V.

As a separate and further defense claimant alleges that by reason of the acts of the "Selja" as herein described a collision occurred between the "Selja" and the "Beaver," whereby the "Selja" inflicted damages on the hull of the "Beaver" in excess of the sum of Twenty-one Thousand Five Hundred Dollars (\$21,500), and caused her to be laid up during the reparation of the said injury for fifteen (15) days, during which time claimant was damaged in the nature of demurrage through the loss of the use of said vessel, in the sum of Fourteen Thousand Dollars (\$14,000).

VI.

As a further and separate defense to the said action, claimant alleges that by reason of the said collision cargo on the steamer "Selja" of a great value, amounting to more than Two Hundred Thousand Dollars (\$200,000), but how much more claimant does not know, was sunk with the said steamer, and that if it should be held that both the said steamers were in fault in the said collision, the negligent acts of the "Selja" hereinbefore described would occa-

sion a further liability on the part of the "Beaver" for all of the value of the said cargo so destroyed or lost.

WHEREFORE, claimant prays that libelant take nothing by its libel, and that claimant be hence dismissed with its costs, and that the stipulators on the stipulation heretofore filed herein be discharged from all liability, and further prays that in the event both of the vessels herein be found in fault, that the damages of the two vessels be apportioned under the usual rule of cross-liabilities, and that if any balance be due from the "Beaver" to the "Selja," that there be deducted therefrom one-half the value of the cargo lost by the said joint negligence if any be found, and for such [26] other and further relief as may in the premises seem meet.

PAGE, McCUTCHEN, KNIGHT & OLNEY,  
WILLIAM DENMAN,  
Proctors for San Francisco & Portland Steamship  
Company, Claimant of Steamer "Beaver."  
[27]

City and County of San Francisco,  
State of California,—ss.

R. P. Schwerin, being first duly sworn, deposes and says:

That he is an officer, to wit, vice-president and general manager of the San Francisco & Portland Steamship Company; that he has read the foregoing answer and knows the contents thereof; that all the matters therein stated are alleged on his information

and belief, and that as to those matters he believes it to be true.

R. P. SCHWERIN.

Subscribed and sworn to before me this 18th day of January, 1911.

[Seal] GENEVIEVE S. DONELIN,  
Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Jan. 8, 1911. Jas. P. Brown,  
Clerk. By M. T. Scott, Deputy Clerk. [28]

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*In the District Court of the United States in and for  
the Northern District of California.*

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," etc.,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

**Answer of the San Francisco and Portland Steamship Company to the Libel of Intervention.**

To the Honorable J. J. DE HAVEN, Judge of the District Court of the United States, for the Northern District of California:

The answer of the San Francisco & Portland Steamship Company, a corporation, owner of the American steamship "Beaver," her claimant herein, to the libel of intervention of Olaf Lie, Master of the

Norwegian steamer "Selja," alleges and denies as follows:

I.

Alleges that it is ignorant of the value of the cargo of the steamer "Selja" immediately before the said collision, or at all, wherefore it calls for proof thereof if the same be pertinent.

II.

Denies that the total loss of the cargo or any loss of the cargo as alleged in Article IV of the said libel, or at all, or that any of the injuries to the said cargo, or to the steamship "Selja," were caused by the fault of those, or any of them, in charge of the navigation of the said steamship "Beaver."

III.

Answering Article V of the said libel alleges that it is ignorant of the amount, if any, the owners and other persons, or [29] any of them on whose behalf libellant intervening is bailee of the said cargo, have suffered by reason of the loss of any of the said cargo in said collision, wherefore it calls for the proof of any and all of said losses, if the same be pertinent.

IV.

Admits that all and singular the premises are in the admiralty and maritime jurisdiction of this court, but denies that any of the same are true save as hereinabove alleged or admitted.

Wherefore, claimant prays that Olaf Lie, as said intervenor, and the said alleged owners of cargo on the steamer "Selja," and each of them, take nothing by reason of the said libel of intervention, and that

claimant be hence dismissed with its costs, and that the stipulators on the stipulation filed herein for the release of the said steamer "Beaver" be exonerated, and for such other relief as may in the premises seem meet.

PAGE, McCUTCHEN, KNIGHT & OLNEY,  
WILLIAM DENMAN,  
Proctors for Claimant. [30]

State of California,  
City and County of San Francisco,—ss.

A. J. Frey, being first duly sworn, deposes and says:

That he is the managing agent of the San Francisco & Portland Steamship Company, the claimant herein; that he has read the foregoing answer and knows the contents thereof; that all the matters therein stated are true of his own knowledge except those matters therein stated on information and belief, and as to such matters he believes it to be true.

A. J. FREY.

Subscribed and sworn to before me this 3d day of February, 1911.

[Seal] GENEVIEVE S. DONELIN,  
Notary Public in and for the City and County of  
San Francisco, State of California.

[Endorsed]: Filed Feb. 3, 1911. Jas. P. Brown,  
Clerk. By M. T. Scott, Deputy Clerk. [31]



At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 28th day of February, in the year of our Lord, one thousand nine hundred and eleven. Present: The Honorable JOHN J. DE HAVEN, Judge.

No. 15,099.

**Order Permitting St. Paul Fire and Marine  
Insurance Co. to Intervene.**

OLAF LIE, etc.,

vs.

Am. S. S. "BEAVER," etc.

The motion for an order permitting the St. Paul Fire and Marine Insurance Company to intervene herein this day came on for hearing, F. R. Wall, Esqr., appearing for and Thomas A. Allan, Esqr., appearing against said motion, and after hearing proctors, by the Court ordered that said motion be, and the same is hereby granted. [32]

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At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Friday the 12th day of May, in the year of our Lord one thousand nine hundred and eleven. Present: The Honorable JOHN J. DE HAVEN, Judge.



No. 15,099.

OLAF LIE, Master, etc.,

vs.

The American Str. "BEAVER," etc.

No. 15,130.

PORTLAND & ASIATIC STEAMSHIP COM-  
PANY

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP  
COMPANY.

**Order Consolidating Causes and Referring Same to  
a Commissioner.**

The motion to consolidate these causes for trial and for an order of reference, this day came on for hearing, and after hearing E. B. McClanahan, Esqr., in behalf of said motion and other proctors in opposition thereto, by the Court ordered that said causes be, and they are hereby consolidated for trial, and said causes as consolidated be, and they are hereby referred to Jas. P. Brown, United States Commissioner, to take the evidence to be offered by the respective parties and to report the same to the Court within thirty days from this date. [33]

*In the District Court of the United States for the  
Northern District of California.*

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the  
Owners, Officers and Crew of said Steamship,  
Libelant,

vs.

The American Steamship "BEAVER," her En-  
gines, etc., Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP  
CO., a Corporation,  
Claimant.

**Stipulation [That Libelant was Owner of Certain  
Personal Effects, etc.].**

It is hereby stipulated between the respective parties hereto that the libelant, Olaf Lie, was the legal owner of the personal effects of his wife and two children which were lost in the collision between the steamship "Selja" and the steamship "Beaver," and that his right to testify as to the loss of said personal effects, what they consisted of and their value is not to be questioned.

Dated: April 25th, 1911.

PAGE, McCUTCHEN, KNIGHT & OLNEY,  
Proctors for Claimant.  
McCLANAHAN & DERBY,  
Proctors for Libelant.

[Endorsed]: Filed Jun. 9, 1911. Jas. A. Brown,  
Clerk. By Francis Krull, Deputy Clerk. [34]

*In the District Court of the United States in and for  
the Northern District of California.*

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship  
“SELJA,” on Behalf of Himself and the  
Owners, Officers and Crew of said Steamship,  
Libelant,

vs.

The American Steamship “BEAVER,” her En-  
gines, etc.,

Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP  
CO., a Corporation,  
Claimant.

CONSOLIDATED FOR TRIAL.

No. 15,099.

AND

OLAF LIE, Master of the Norwegian Steamship  
“SELJA,” etc.,  
Libelant,

vs.

The American Steamship “BEAVER,” her En-  
gines, etc.,

Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP  
COMPANY, a Corporation,  
Claimant.

No. 15,130.

AND

PORTLAND & ASIATIC STEAMSHIP COM-  
PANY, a Corporation,

Libelant,

vs.

**SAN FRANCISCO & PORTLAND STEAMSHIP  
COMPANY, a Corporation,**

Respondent. [35]

**Stipulation as to Depositions of Axel Andersen et al.**

It is hereby stipulated by the proctors for the respective parties that the evidence embodied in the depositions of Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Pedar Hensen, and Alfred Larsen, heretofore taken in the suit of Olaf Lie, Master, etc., vs. S. S. "Beaver" and now on file in the Clerk's office of the above-entitled court, may be considered and taken as evidence in the above-entitled and consolidated causes.

And it is further agreed that all stipulations heretofore entered into in said suit are to be considered and taken as binding on the respective parties in the above-entitled and consolidated causes.

Dated: May 16th, 1911.

PAGE, McCUTCHEN, KNIGHT & OLNEY,

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.....

Proctors for San Francisco & Portland S. S. Co.,  
Claimant S. S. "Beaver."

LOUIS T. HENGSTLER,

Proctor for Olaf Lie etc., in Suit of Cargo Interests.

McCLANAHAN & DERBY,

Proctors for Olaf Lie, etc., in Suit for Interest of  
Owners, Master and Crew of S. S. "Selja."

McCLANAHAN & DERBY,

Proctors for Portland & Asiatic S. S. Co., in Suit for  
Freight Interest.

[Endorsed]: Filed Jun. 9, 1911. Jas. P. Brown,  
Clerk. By Francis Krull, Deputy Clerk. [36]

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**[Minutes of Trial—January 18, 1912.]**

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 18th day of January, in the year of our Lord, one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099.

OLAF LIE, etc., et al.,

vs.

The American S. S. "BEAVER," etc.

No. 15,130.

PORTLAND & ASIATIC S. S. CO.

vs.

The American S. S. "BEAVER," etc.

These causes as consolidated for trial this day came on for hearing, Charles Page, Esqr., and Wm. Denman, Esqr., appearing as proctors for the claimant of the steamship "Beaver," and E. B. McClanahan, Esqr., and S. H. Derby, Esqr. appearing as proctors for libelants and L. T. Hengstler, Esqr., appearing as proctors for intervenor. Mr. McClanahan introduced in evidence all the testimony given by the officers of the steamship "Selja." Mr. Page argued the case on behalf of claimant and there-

upon the further argument of the causes was continued until Jan. 22, 1912. [37]

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**[Minutes of Trial—January 22, 1912.]**

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 22d day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099 and Consolidated Case #15,130.

OLAF LIE, etc., et al.,

vs.

The S. S. "BEAVER," etc.

These causes this day came on for further argument and after hearing Wm. Denman, Esq., proctor for respondent, L. T. Hengstler, Esq., for intervenor, and E. B. McClanahan, Esq., for libelants, the further argument was continued until Jan. 23, 1912. [38]

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**[Minutes of Trial—January 23, 1912.]**

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 23d day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.



No. 15,099 and Consolidated Case #15,130.

OLAF LIE, etc., et al.

vs.

The S. S. "BEAVER," etc.,

These causes this day came on for further argument, and after hearing E. B. McClanahan, Esqr., for libelant, by the Court ordered that the further argument be, and same is hereby continued until Jan. 24, 1912. [39]

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**[Minutes of Trial—January 24, 1912.]**

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 24th day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099 and Consolidated Case #15,130.

OLAF LIE, et al.,

vs.

S. S. "BEAVER," etc.

**[Order of Submission.]**

These causes this day came on for further argument; and after hearing E. B. McClanahan, Esqr., for libelants and Wm. Denman, for respondent, by the Court ordered that said causes stand submitted to the Court for decision. Defendant granted leave to file brief; all briefs to be in within thirty days from date. [40]

*In the District Court of the United States for the  
Northern District of California.*

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship  
“SELJA,” on Behalf of Himself and the  
Owners, Officers and Crew of Said Steamship,  
Libelant,

vs.

The American Steamship “BEAVER,” Her En-  
gines, Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances,  
Libelee.

**Stipulation for Taking Depositions [of Axel  
Andersen et al.].**

It is hereby stipulated and agreed by and between the proctors for the respective parties herein that the depositions of Axel Anderson, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Pedar Hensen and Alfred Larsen, witness on behalf of the libelant herein and who are about to go out of the United States and who will not be present at the trial, may be taken *de bene esse* at the offices of McClanahan & Derby, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, on the 2d day of December, 1910, at 9 o'clock A. M. before James P. Brown, a United States Commissioner for the Northern District of California, and in shorthand by a competent stenographer appointed by him for that purpose.

It is further stipulated that the said depositions

when written out may be read in evidence by either party on the trial of this cause; that all questions as to notice of the time and place of taking the same are waived and that all objections [41] to the form of the questions are waived unless made at the time of taking said depositions.

It is further stipulated that the reading over of the said depositions to or by the said witnesses and the signing thereof by them are hereby expressly waived.

Dated: December 1st, 1910.

McCLANAHAN & DERBY,

Proctors for Libelant,

PAGE, McCUTCHEN, KNIGHT & OLNEY,  
WILLIAM DENMAN,

Proctors for Libelee and Claimant. [42]

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*In the District Court of the United States in and  
for the Northern District of California.*

OLAF LIE, Master of the Norwegian Steamship  
"SELJA," on Behalf of Himself and the Owners,  
Officers and Crew of Said Steamship,  
Libelant,

vs.

The American Steamship "BEAVER," Her Engines,  
Boilers, Tackle, Apparel, Furniture,  
Boats and Appurtenances,

Libelee.

**Depositions of Axel Andersen et al.**

BE IT REMEMBERED that on Friday, December 2d, 1910, pursuant to stipulation of counsel here-

(Deposition of Alfred Halvorsen.)

unto annexed, at the office of Messrs. McClanahan & Derby, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, James P. Brown, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Axel Anderson, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, witnesses produced on behalf of the libelant.

Messrs. McClanahan & Derby appeared as proctors for the libelant, and William Denman, Esq., and Charles Page, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctors for the libelee and claimant, and the said witnesses, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth. [43\*—1†]

**[Deposition of Alfred Halvorsen, for Libelant.]**

ALFRED HALVORSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Alfred Halvorsen.

Q. How old are you? A. 29.

Q. What is your residence?

A. My residence is Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your business or profession?

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\*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Depositions as same appears in Certified Transcript of Record.

(Deposition of Alfred Halvorsen.)

A. My business?

Q. Yes. A. I was first officer on the "Selja."

Q. How long have you followed the sea?

A. 12 years; a little over.

Q. What papers do you hold?

A. First officer.

Q. How long have you held them?

A. Three years and about three months.

Q. Issued by who?

A. The Norwegian government.

Q. How long have you been with the steamship "Selja?" A. Ever since she was built.

Q. When was that? A. 1907.

Q. Do you know where she was built?

A. West Hartlepool.

Q. England? A. Yes, sir.

Q. You were on the "Selja" at the time of the collision with the steamship "Beaver"?

A. Yes, sir.

Q. What day of the month was that?

A. The 22d of November.

Q. This year? A. This year.

Q. When was your first watch on November 22d?

A. 4 to 8 A. M.

Q. When you went on the bridge at 4 o'clock, who was there?

A. The captain and also the third officer.

Q. You relieved the third officer, did you?

A. Yes, I relieved the third officer.

Q. What was the course that the steamship "Selja" was steering at that time?



(Deposition of Alfred Halvorsen.)

A. We were then steering in the great circle course, south 52 east. [44—2]

Q. True or magnetic? A. True.

Q. What was the weather at that time?

A. Calm and foggy, and a westerly swell.

Q. What was the speed of your ship at that time?

A. Full speed.

Q. How long did your engines remain at full speed after you went on the bridge at 4 o'clock?

A. Until 5:30.

Q. What did you do at 5:30, if anything?

A. I went aft to take the first sounding.

Q. Prior to going aft to take these first soundings what had you been doing on the bridge?

A. I do not understand.

Q. Read the question, Mr. Reporter.

(The reporter reads the question.)

A. Before that I had been sounding the whistle.

Q. What whistle was that?

A. The fog whistle.

Q. How often did you sound the fog whistle?

A. About every minute.

Q. What kind of a whistle is that?

A. It is a fine whistle.

Q. How was it operated, by hand or by steam?

A. It is a steam whistle; there is a line leading down to the bridge; it is operated by hand.

Q. It is not automatically operated?

A. No, sir.

Q. One end of the line is attached to the whistle; where is the other end attached?



(Deposition of Alfred Halvorsen.)

A. It is attached on the bridge.

Q. Whereabouts?

A. Close to the compass in the amidships.

Q. Is that in the wheelhouse or outside?

A. In the wheelhouse.

Q. How did you operate that whistle?

A. Just put the hand on it and draw it.

Q. Both ends of the line are attached to something, one at the whistle and one to the forepart of the wheelhouse?

A. Yes, sir.

Q. Where did you go to take these first soundings at 8:50? [45—3]

A. To the poop.

Q. How did you take the soundings?

A. By the sounding machine.

Q. What kind of a sounding machine had the "Selja"?

A. Lord Calvius latest patent.

Q. Had there been any soundings taken prior to that?

A. No, sir.

Q. How were the "Selja's" engines being operated up to the time you took the first sounding?

A. It was running full speed.

Q. Were the "Selja's" engines changed after that?

A. Yes. When I got back to the bridge it was running half speed.

Q. When you got back to the bridge from taking the first sounding?

A. Yes, sir.

Q. What was the speed of the "Selja" during the balance of your watch as shown by the engines?

A. Half speed.

Q. That is up to 8 o'clock?

(Deposition of Alfred Halvorsen.)

A. Up to 8 o'clock.

Q. How often after taking this first sounding at 5:30 did you take soundings?

A. Every half hour.

Q. Up to what time? A. Till 8 o'clock.

Q. When you were not taking soundings what were you doing?

A. I remained on the bridge blowing the whistle.

Q. Was the whistle being blown while you were taking soundings? A. Yes, sir.

Q. Who blew it? A. The captain.

Q. How often were your whistles sounded?

A. About every minute.

Q. Do you remember the last sounding that you took at 8 o'clock? A. Yes, sir.

Q. What was it? A. 45 fathoms.

Q. What was the course during the time you were on that watch? A. The same course, 52.

Q. What?

A. South, 52 east, true. The great circle course.

Q. Who relieved you, Mr. Halvorsen?

A. The second officer. [46—4]

Q. Do you know who was in the engine-room during your watch? A. The chief engineer.

Q. After you had been relieved where did you go?

A. I went down in my room and prepared for breakfast.

Q. After leaving the bridge at 8 o'clock when did you next go on the bridge?

A. At about 9 o'clock; after I had my breakfast.

Q. Do you know whether the ship's course had

(Deposition of Alfred Halvorsen.)

been changed at 9 o'clock or at about 9 o'clock when you went on the bridge the second time?

A. Yes, it had been changed.

Q. Do you know what the change was?

A. I know she was heading right on the swell.

Q. And the swell you say was westerly?

A. Westerly swell.

Q. Do you know whether her speed had been changed when you went on the bridge at 9 o'clock?

A. Yes, sir.

Q. What was the change?

A. She was running dead slow.

Q. And prior to that she had been running half speed? A. Half speed until 8 o'clock.

Q. What did you do after you went on the bridge at 9 o'clock?

A. I went down again on deck, giving the boat-swains some orders as I superintended the work together with the boatswains.

Q. Did you notice after 9 o'clock any change in the speed of the "Selja"?

A. Yes; somewhere around 9:30 it was changed.

Q. The speed? A. Not the speed.

Q. What? A. The course.

Q. The course was changed. Do you know what that change was?

A. She was going with the swell then.

Q. Do you know of any change in the course of the "Selja" after 9:30?

A. Yes; about 11 o'clock she was changed again.

Q. What was the change then?

(Deposition of Alfred Halvorsen.)

A. She was on the swell once more. [47—5]

Q. Heading on the swell?

A. Heading on the swell.

Q. Do you know whether she changed her speed after you observed that it was dead slow at 9 o'clock?

A. No, it was the same speed, just as much as the engines were going.

Q. "Just as much as the engines were going"; what do you mean by that?

A. Just as much as they were going around, as far as I could feel it on the ship by the vibration.

Q. Make that a little clearer, Mr. Halvorsen. Do you mean that the vibrations showed you that the engines were going dead slow? A. Yes, sir.

Q. After going on the bridge at 9 o'clock did you again go on the bridge?

A. Not until 1 o'clock.

Q. You went on at 1 o'clock; what did you go on then for?

A. When we had our lunch together—I was eating together with the captain—the captain said he would try; it seemed to him that the fog had lifted a little; and then I went on the bridge at 1 o'clock to get orders.

Q. Did you notice then the course of the steamer?

A. Yes, sir.

Q. What was it at 1 o'clock?

A. To 1 o'clock it was on the swell and then it changed around and then we were steering south 60 east magnetic.

Q. Were the engines changed from dead slow to

(Deposition of Alfred Halvorsen.)

your knowledge? A. Yes, sir.

Q. At what time? A. 1 o'clock.

Q. What was the order to the engine-room, do you know?

A. I don't know the orders but she was running at six knots.

Q. How do you know she was running then at six knots?

A. Well, just afterwards I went aft to take soundings every 5 minutes.

Q. Those were the orders that the captain gave you when you went [48—6] on the bridge?

A. Yes, sir.

Q. You say you went aft to take these soundings; then what?

A. I notified the log every five minutes.

Q. Excuse me. What do you mean by notifying the log? A. I read the log.

Q. You noticed the log? A. Yes.

Q. You noticed the log, and what?

A. I noticed the log and put it down on a slip of paper,—I should say the soundings and the time.

Q. The soundings and the time.

A. The soundings and the time, every five minutes, and by that I found she was going exactly six knots.

Q. How long did you take these soundings every five minutes? A. Up to about a quarter to 3.

Q. Up to that time, Mr. Halvorsen, what was the weather?

A. Fog, calm. There might have been a little wind, but as far as I could judge it was practically



(Deposition of Alfred Halvorsen.)  
calm and a westerly swell.

Q. At a quarter of 3 o'clock you say you stopped taking soundings? A. Yes, sir.

Q. Were you relieved by anyone?

A. I was relieved by the second officer.

Q. What did you do after a quarter of 3?

A. I went on the bridge.

Q. Who did you find on the bridge at that time?

A. The captain and the third officer.

Q. What did you go on the bridge for?

A. Because the captain was waving his hands; I thought he saw something, and I was going to find out, and then I told Mr. Larsen to relieve me,—the second officer.

Q. Then when you went on the bridge what did you find out?

A. I heard the sound signals from Point Reyes, which I could not [49—7] hear on the poop.

Q. Is that what the captain was waving his hands at? A. Yes.

Q. Do you know? A. Yes, sir.

Q. What time was it that you heard the sound signal from Point Reyes?

A. When I got on the bridge I should think it was a few minutes to 3.

Q. Where was it bearing?

A. What do you mean?

Q. I mean where was the sound bearing when you first heard it?

A. I should say a little abaft the beam.

Q. A little abaft the beam. How often did that



(Deposition of Alfred Halvorsen.)

sound signal sound? A. Every 35 seconds.

Q. How do you know that? A. I timed it.

Q. After you reached the bridge you timed the sound signals? A. I timed it.

Q. Did you take any bearings of that sound signal? A. Yes, I did.

Q. When? A. At 3 o'clock.

Q. What was the bearing?

A. North, magnetic.

Q. North, magnetic. How do you know it was 3 o'clock when you took that bearing?

A. I took the bearing and then I looked on the clock in the chartroom, just close to the compass.

Q. After that did you hear any other fog signals?

A. Yes; about the same time or a minute or so after I heard one whistle.

Q. Where was that? A. On the port bow.

Q. Could you tell what it was?

A. No, I was not quite sure what it was.

Q. Was it a near or far-away whistle?

A. It sounded far-away.

Q. After hearing this one whistle on your port bow where did you go? Or what did you do? [50—8]

A. Then I left the bridge, a minute or so after.

Q. What for?

A. The boy had been there and told me coffee was ready, was served.

Q. Where did you take your coffee?

A. In the chief engineer's room.

Q. Do you know what the speed of the "Selja"

(Deposition of Alfred Halvorsen.)

was or how her engines were working at the time you left the bridge?

A. She was running with the same speed; 6 knots I should say.

Q. Do you know what her course was at that time?

A. Yes. The course had been changed after we passed Point Reyes.

Q. After you passed Point Reyes the course was changed? Do you know what the course was then?

A. Yes, sir.

Q. What was it?

A. South 65 east, magnetic.

Q. Did you hear any bells from your engine-room after you left the bridge a little after 3?

A. Yes. When I went to my coffee I heard the telegraph ring.

Q. Did you know at the time what that order was to the engine-room? A. No.

Q. After you had your coffee what did you do?

A. I took a trip around the decks, saw the boatswain and told him about some things I wanted to be done.

Q. Then what did you do?

A. I went on the poop to find out if the second officer had got his coffee.

Q. When you went on to the poop do you know how your engines were running then as compared with how they had been running when you were on the bridge?

A. They were not running at all.

(Deposition of Alfred Halvorsen.)

Q. They had stopped when you went on the poop?

A. Stopped; they were not running.

Q. Do you know whether your whistle had been sounding up to that time?

A. Yes; it had been sounding all the time.

[51—9]

Q. Did you hear any more of the whistles from the port bow that you had heard on the bridge?

A. I did not pay any attention to it.

Q. Did you relieve the second officer?

A. No, sir.

Q. Why not?

A. While I was on my way I heard three whistles from the "Selja."

Q. What did you do then?

A. I turned myself around to look for an approaching ship.

Q. Did you see anything?      A. Yes, I saw.

Q. What did you see?

A. I saw a dark shape on the port bow, about three points or so on the port bow, which later on took the shape of a vessel.

Q. When you saw this vessel on the port bow what did you do?      A. I watched her coming.

Q. Where were you standing when you watched her?

A. I went out to the wing, to the port side railing on the poop.

Q. Did you hear any signals from this approaching vessel?

(Deposition of Alfred Halvorsen.)

A. I am not quite sure of that; I did not pay any attention to it.

Q. Do you know how this steamer approached you, whether she was coming fast or whether she was coming slow?

A. She seemed to be coming very fast to me.

Q. How do you judge that she was coming fast?

A. By the way she cut the water, the foam on the bow.

Q. While she was approaching what were you doing? A. I was watching her all the time.

Q. Did you see the impact? A. No, sir.

Q. Could you see her speed up to the time just immediately before the impact? A. Yes, sir.

Q. Do you know whether the "Selja" as you watched the "Beaver" [52—10] had any sternway or headway?

A. She had a little sternway.

Q. How do you know that?

A. After the three whistles were blown the engines were started; by looking at the direction of the "Beaver" and also down at the water, I could see the back water from the propeller coming alongside the ship.

Q. Alongside of what ship? A. The "Selja."

Q. How far could you see this back water from the propeller of the "Selja" running along the side of the "Selja"?

A. I could see as far as to where she hit, the place where she struck us.

Q. Before you heard the three whistles of the

(Deposition of Alfred Halvorsen.)

“Selja” did you know how the “Selja’s” engines were running? A. They were not running at all.

Q. The engines were stopped?

A. Were stopped.

Q. After you saw the “Beaver” first do you know how the “Selja’s” engines were running?

A. No, sir.

Q. Do you know whether there was any change in the “Selja’s” engines after the three whistles?

A. Yes, sir.

Q. What was the change?

A. I found out afterwards it was full speed astern.

Q. When did you find that out?

A. By looking towards the “Beaver.”

Q. What I want to know, Mr. Halvorsen, is whether you noticed any change in the engines after they had been stopped aside from the notice which you got from a view of the backwater of the “Selja’s” propeller?

A. I could feel they were started.

Q. When did you feel they were started?

A. Just at the time they blew the three whistles.

Q. Did you see the point of impact?

A. No, sir.

Q. Will you tell what you did after the collision, Mr. Halvorsen, [53—11] briefly?

A. Well, after the collision the ship took a heavy list, and then I thought it must have been a big wound, and so I got all the men together that was standing on the after deck and told them to run to the boats and get them ready as quickly as possible,



(Deposition of Alfred Halvorsen.)

and I got out the port side lifeboat, and then I run over to the starboard side to give a hand there, but that boat we could not get out on account of the heavy list. I saw there was nothing to save, the ship was sinking rapidly, so I jumped in the boat on the port side, the lifeboat; there was a few men left on the deck. They came running, trying to save themselves. I saw the captain jump overboard and swim to the boat, and afterward we pulled over to the "Beaver."

Q. Do you know what became of the "Selja"?

A. The "Selja" sank down; she turned turtle when she got down.

Q. How long after the collision did she sink?

A. Oh, I should judge about 15 minutes or so; she was hanging up and down for some minutes; the poop, you could just see the poop from the water; I should think she was in a position like that for two or three minutes.

Q. Then she sank?

A. Then she turned around and went down and sank.

Q. Were there any lives lost?      A. Yes; two.

Q. Who were they?

A. One sailor and one Chinese quartermaster.

Q. Your crew were Chinese, were they?

A. Yes, sir.

Q. Do you know whether the ship's papers were saved or not?

A. Well, the captain throwed the papers—I don't know about it, it is only hearsay—in the boat which



(Deposition of Alfred Halvorsen.)

was smashed alongside the ship.

Q. You have not seen the bridge log of the "Selja" since the [54—12] collision, have you?

A. No, sir.

Q. Was there a log prepared after you had landed here at this port covering the 22d of November?

A. I do not understand the question.

Q. Read the question, Mr. Reporter.

(The reporter reads the question.)

A. Yes, sir.

Q. I hand you a paper and ask you what that is (handing). A. That is the log prepared.

Q. Is your signature on there?

A. Well, I made it myself, yes; it is in my handwriting.

Q. Is your signature on there? A. Yes, sir.

Q. Which is your signature?

A. That is the one (pointing to the name "A. Halvorsen.")

Mr. DENMAN.—Have you a translation of this?

Mr. McCLANAHAN.—I have what I suppose to be a translation. I cannot vouch for it because I do not know anything about the language.

Mr. DENMAN.—Then I am afraid we will have to postpone our cross-examination until we can get our translation.

Mr. McCLANAHAN.—You would not know any more about the translation than I would after you got it, would you, Mr. Denman?

Mr. DENMAN.—Will you stipulate that this is a correct translation?

(Deposition of Alfred Halvorsen.)

Mr. McCLANAHAN.—Yes, but I stipulate that with the reservation that I cannot prove it personally. I believe it to be a true translation.

Mr. DENMAN.—Q. Have you looked over this translation of the log?

A. No, I don't think I have. [55—13]

Mr. McCLANAHAN.—We ask that this paper be marked for Identification Libelant's Exhibit "A."

(The paper is marked "Libelant's Exhibit 'A,' for Identification.")

Q. Mr. Halvorsen, did you have any lookouts at the time and prior to the collision?

A. All the time.

Q. Where were they?

A. On the forecastle-head.

Q. Who were they?

A. A sailor; sometimes a sailor and sometimes a quartermaster.

Q. Do you know who was on watch at the time of the collision?

A. I know the man, I don't know the name.

Q. Was it a quartermaster or a sailor?

A. A sailor.

Q. Did you lose any personal effects because of this collision? A. Yes, quite a lot.

Q. Have you a list of the effects that you lost?

A. Yes, sir.

Q. Can you, without the assistance of that list say what they were?

A. No, not exactly. I have been working on it

(Deposition of Alfred Halvorsen.)

for several days, and there are still more I forgot to put in.

Q. Just refresh your memory, if you can, from an inspection of your list and tell us what you lost. Do you know the value of the things you lost?

A. Not exactly, but I will do my best to get the right value down.

Q. Give your best judgment of their value.

A. Yes.

Q. Is this the value that you place on the goods at the time they were lost?

A. Some of them; some were practically new and I put the same value down then as I bought it for.

Q. But with that exception the value is as of the time that the goods were lost? A. Yes, sir.

Q. Now, will you refresh your memory from the list and tell us what you lost? Take out your list and refresh your memory.

A. I lost my sextant which I paid £9 for in England; besides [56—14] that I paid for a certificate at Norway.

Q. What was the value of the sextant at the time of the collision, when it was lost?

A. The same thing.

Q. How long had you owned it?

A. Three and a half years.

Q. You consider it of the same value?

A. Of the same value.

Q. Go on. A. I lost Nautical Tables.

Q. What do you mean?

A. They differ in value, \$2 to \$3 apiece. Asimuth

(Deposition of Alfred Halvorsen.)

Table, Great Circle Table, one handbook for officers and one for engineers.

Q. I wish you would give the value, because we are going to be confused, if you do not, of each article as you enumerate them. Will you go back to your Nautical Tables?

A. Nautical Tables; they cost all the way from \$1.50 to \$2 apiece.

Q. Now, are you giving the value at the time they were lost?

A. No, at the time they were bought; if I want to buy them I have to pay the same for them again; they were just as good as new, too.

Q. In each instance will you please give us the value at the time of the loss of the articles, using your best judgment. You have given us the value of the Nautical Tables; proceed.

A. The Asimuth Table, \$1.00 or \$1.50. I do not know the exact price but that is to the best of my judgment.

Q. Give us the value of the Great Circle Table?

A. It is \$1.00, I think.

Q. What is the value of the handbook for officers?

A. \$1.50.

Q. What is the value of the handbook for engineers? A. \$2.50. And several other books of the value of \$6. New uniform, \$30. One blue serge suit, new, \$28; one summer suit, \$28; six white uniforms, \$6.

Q. \$6 each or \$6 for the six.

A. For the whole bunch; they [57—15] were

Deposition of Alfred Halvorsen.)

partly worn. 3 uniform caps, \$3.

Q. \$3 each or for all of them?

A. The whole business. One overcoat, \$25; one overcoat with skin collar and sleeves for use on the ridge in cold weather.

Q. What value?

A. \$27. A new raincoat, never used, \$18. Oil-skin coat, \$5. One pair of wooden clogs, \$1.75; four pair of shoes, \$11; one pair of silk bed curtains, \$8.50; two pair of white porthole curtains, \$1.75; two green cloth portierres, \$8; 2 green cloth table cloths, \$3.50; two green cloths on top of the wash-stands \$2; two green cloths on top of the writing desk, \$2; one inkstand of white metal, \$1; two white bedcovers, \$7—I don't know if that is the right name for the things or not; I am not quite sure about the name. 3 woolen blankets, \$12; two bed pillows, \$2; one fancy sofa pillow \$2.50; half a dozen pillow slips, \$1.50; two mattresses, \$4; six woolen undershirts, \$8; seven woolen drawers, \$8.50; 8 fancy overshirts, \$10; five fancy waistcoats, \$12; 12 silk handkerchiefs, \$2; half a dozen towels, \$1; about ten pictures or paintings with frames, \$15.

Mr. DENMAN.—Q. Mr. Halvorsen, these figures that you are giving are the total figures for all?

A. For all.

Q. Not apiece; not \$15 apiece? A. No.

Q. That is true in each case that you have given before, is it not? In each case you have given the total for the group of items?

A. That is quite right. 800 cigars, \$16; one razor,



(Deposition of Alfred Halvorsen.)

\$2; hairbrush, 25 cents; clothes brush, 50 cents; toothbrush, 25 cents; shaving brush, 25 cents; shaving stick, 25 cents; a carpet, \$5; straw hat, \$2; 2 hard hats, derbys, \$7; about three dozen collars, \$4; half a dozen ties, \$2.50; two collar boxes, \$2; two pocket knives, \$1.50; 12 pair of stockings, \$3; two trunks, \$8; one canvas bag, \$1.50; two pair of garters, \$1; three [58—16] pair of suspenders, \$1.50; one photo album, \$2.50; Norwegian black silk embroidery, \$3; a Columbia phonograph, \$40, and about 200 records, varying from \$1.50 to 65 cents each, about \$170.

Mr. McCLANAHAN.—Q. Is that all?

A. That is all. There was much more but I forgot to put it in.

Q. What is the total of that? A. \$643.50.

Q. You are a married man, are you?

A. Yes. The ship was my home; I been going on this for several years and getting these things.

Q. Was your wife with you at the time?

A. No, sir.

Cross-examination.

Mr. DENMAN.—Q. What was this item of \$170 for phonograph records? When did you buy those?

A. We bought them mostly all in Portland. We bought the phonograph a little over a year ago and in the phonograph we were all partners, but it was kept in my room, and each trip when we were here and heard a nice one and we wanted to have that one we bought it, perhaps two or three at a time, and a few days later we bought some more.



(Deposition of Alfred Halvorsen.)

Q. Then these records have been in use steadily, haven't they, on the ship?

A. They have been used a little.

Q. Pretty steadily? A. Oh, yes.

Q. Now, you were giving the cost value at \$170?

A. No, I was not. There was quite a lot we paid \$1.50 apiece and others down to 65 cents apiece, and I reckon we had at least 200 records; we had a box made by the carpenter, and they were put in the box there, and there were four compartments. As far as I can judge there was over 200 records, or about 200.

Q. Then you were giving about what you think they were worth at the time of the loss of the vessel?

A. Yes. Of course they [59—17] were used a little.

Q. Now, this log here that you prepared, I see it is signed by Olaf Lie, Alfred Halvorsen and Bjorn is the other name—the third officer. Is that correct?

A. Yes.

Q. All these signed this statement on the 23d of November, did not they, the day after? A. Yes.

Q. Then they signed it again yesterday, didn't they? A. The day before yesterday.

Q. Was it day before yesterday or yesterday?

A. The day before yesterday.

Q. That was Wednesday. On Wednesday of this week? A. Yes.

Q. And this is correct—the statements in here are correct? A. The statements are correct.

Q. They read it over and talked it over with you

(Deposition of Alfred Halvorsen.)

before they made it up, didn't they; that is, they talked it over with you before they made it?

A. We talked it over before.

Q. And then after they read it over they approved it as correct, didn't they, and signed their names to it? A. I don't understand.

Q. I say after they had read it—first you talked it over with them, didn't you? A. Yes.

Q. Then you wrote up the log as we have it here?

A. Yes, sir.

Q. And then they read it over and signed their names; that is correct, isn't it?

A. That is correct.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all. [60—18]

[Deposition of Rambek Eggen, for Libelant.]

RAMBEK EGGEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Rambek Eggen.

Q. What is your age? A. 45.

Q. What is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your profession? A. Engineer.

Q. Do you know the steamship "Selja"?

A. Yes, sir.

Q. What was your connection with the "Selja"?

A. I was chief engineer of the "Selja."

Q. What papers do you hold?

(Deposition of Rambek Eggen.)

A. Chief engineer's papers.

Q. How long have you held them?

A. For 14 years.

Q. Issued by what government?

A. By the Norwegian government.

Q. Were you chief engineer of the "Selja" on the 22d of November, 1910? A. Yes, sir.

Q. What was your first watch on that day?

A. My watch was from 4 in the morning until 8.

Q. Four hours? A. Four hours.

Q. Who did you relieve?

A. The third engineer.

Q. When you went into the engine-room on watch that morning how were your engines working?

A. They were working full speed ahead.

Q. Was there any change in the working of the engines after 4 o'clock while you were on watch?

A. Yes. We had a change at half-past 5 in the morning.

Q. What was that change?

A. Slow her down to half speed.

Q. After half-past 5 in the morning was there any change on your watch?

A. There was a change at 8 o'clock.

Q. Was that change made before you left the engine-room? A. No. [61—19]

Q. Who made that change?

A. I made that change.

Q. What was the change?

A. To slow speed.

Q. Do you know of any change after the order

(Deposition of Rambek Eggen.)

from the bridge slow speed before you left the engine-room?

A. Not before I left the engine-room but just after I left the engine-room I met the captain and he asked me to slow her down to go as slow as possible, dead slow.

Q. What did you do then?

A. I went down to the engineer, the second engineer, and told him to go dead slow.

Q. There is no dead slow indicator on the telegraph, is there?     A. No, sir.

Q. Do you know that the engines were put dead slow?     A. Yes, sir.

Q. After your watch, what did you do, chief?

A. I went up and washed myself and rested and went and had my breakfast, and after I had my breakfast I went to my room again and laid down and had a rest till noon. Then at 12 o'clock the second engineer, he brought me the engine-room log slate.

Q. For what watch?

A. From the previous day.

Q. For what?

A. From the previous day at 12 o'clock; from the day before.

Q. What did you do with this log slate?

A. I entered that into my log-book.

Q. What did you next do?

A. I went then and had my dinner.

Q. What was the condition of the weather at that time?

(Deposition of Rambek Eggen.)

A. It was foggy weather, with calm; there was no wind to speak of.

Q. After you had your dinner what did you then do?

A. I went to my room again and commenced work at my log abstracts.

Q. What are they, chief?

A. They are abstracts from the log-book which we use to send home to our owner and our charterer [62—20] for every voyage. That is an abstract for a whole voyage.

Q. Those are made out at the end of the voyage, are they? A. Yes, sir.

Q. How long did you work on your abstracts?

A. I was working up to 3 o'clock.

Q. What did you do then?

A. I had coffee then, drank coffee, and I was sitting in my room, having a smoke, and was reading a little then.

Q. While you were in your room did you hear any of your engine-room bells?

A. Yes; I heard it twice.

Q. While you were in your room? A. Yes, sir.

Q. Do you know whether after hearing the first bell there was a change in the engines?

A. Yes, I could feel that. It was slowed down.

Q. The engines were slowed down after the first bell? A. Yes, sir.

Q. When do you think you heard the first bell?

A. Oh, it was about 5 minutes after 3.

Q. When do you think it was you heard the sec-

(Deposition of Rambek Eggen.)

ond bell after that?      A. About five minutes after.

Q. Do you know what the second bell was?

A. It was a stop bell.

Q. How do you know that?

A. Because I heard the engines stop.

Q. After hearing your engines stop what did you do?

A. I stayed in my room for a little while and after I went out on deck. As soon as I came out there I heard the telegraph bell ring again and I heard a whistle from another ship.

Q. Where was this whistle heard?

A. I heard it on the port side of the ship.

Q. Was there anyone with you at that time?

A. Yes; the second engineer was up at the same time. [63—21]

Q. What did you do when you heard this whistle?

A. I went over to the rail on the port side.

Q. Did you see anything when you went over there?

A. I looked in the direction where I heard the sound and shortly after I saw something looming up through the fog, which proved to be the outline of a ship, and then I run down into the engine-room at once. I saw there was danger.

Q. Did you see that this outline took form as a ship before you went down into the engine-room?

A. Yes, sir.

Q. Did you notice how the ship was coming?

A. I did not notice anything; it was just a matter of seconds.



(Deposition of Rambek Eggen.)

Q. When you got down into the engine-room how did you find your engines working?

A. At full speed astern.

Q. Who was in the engine-room at that time?

A. The third engineer.

Q. Anyone else?      A. And an oiler.

Q. A Chinese oiler?      A. A Chinese oiler.

Q. After you had reached the engine-room, what happened?

A. Shortly after that I felt a shock in the ship.

Q. On what side was it?

A. On the port side.

Q. What happened after the shock?

A. Shortly after then again I got an order through the speaking-tube to leave the engine-room and come up.

Q. Before you left the engine-room were your engines changed at all?

A. Yes, it was changed to stop.

Q. Who executed that order?

A. I executed it myself.

Q. When you went to the engine-room after seeing the contour of this ship did you go with anybody?

A. The second engineer, he ran down at the same time.

Q. What did you do, chief, when you came on deck again? [64—22]

A. We went to the boat; we saw she had a heavy list on her on the port side.

Q. What became of the "Selja"?

(Deposition of Rambek Eggen.)

A. She went down.

Q. Do you know what became of your engine-room log?     A. It was lost.

Q. After you had reached land did you make out another log for November 22d?     A. Yes, sir.

Q. What day did you make that out?

A. On the 23d.

Q. What is that paper I hand you?

A. That is the log I made out on the 23d.

Q. Is your signature on there?     A. Yes.

Mr. DENMAN.—Q. The other signatures are the second engineer's and the third engineer's?

A. Yes, sir.

Mr. McCLANAHAN.—We offer this in evidence and ask that it be marked "Libelant's Exhibit 1."

(The papers marked "Libelant's Exhibit 1.")

Mr. DENMAN.—Q. Have you read the translation of the log made by the Norwegian Consul?

A. Yes.

Q. That is correct, is it?     A. Into English?

Q. Yes.     A. Yes.

Mr. McCLANAHAN.—Q. Chief, at the time you saw this vessel what was the condition of the weather?     A. It was foggy.

Q. How far off do you think the outline was when you first saw it?

A. I could not say just the distance it was off.

Q. You did not notice that?     A. No, sir.

Q. Did you lose anything, Chief, by the sinking of the "Selja"?     A. I lost all my effects.

Q. Have you prepared a list of what you lost?

(Deposition of Rambek Eggen.)

A. Yes, sir.

Q. Can you refresh your memory from looking at the list and tell us what you lost?

A. Yes, sir. [65—23]

Q. Will you please do so?

Mr. DENMAN.—Let us look at that and possibly we can agree upon that.

Q. Chief, you made this out, did you not (pointing to the list). A. Yes, sir.

Q. This is a fair statement of these things, isn't it? A. Yes, sir.

Q. And it is a fair statement of the values?

A. Yes.

Q. You will give us your word of that, will you?

A. Yes, sir.

Mr. DENMAN.—That is all right; we will accept it..

Mr. McCLANAHAN.—Then it is admitted that the personal effects lost by the chief engineer of the "Selja" at the time of the loss were of the value of \$458.25.

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Q. What kind of a whistle has the "Selja"?

A. She has a splendid whistle, a good whistle.

Q. Do you know whether in this fog the "Selja's" whistle was being made use of before the collision?

A. Yes, it was blowing continually the whole afternoon.

Cross-examination.

Mr. DENMAN.—Q. Now, Chief, you say that in

(Deposition of Rambek Eggen.)

the morning the speed of the vessel was changed from time to time and her course, I imagine, was changed from time to time, as you were trying to discover where you were off the coast. That is a fact, is it not?     A. Yes.

Q. How many times did you stop that morning?

A. On my watch?

Q. Yes.

A. We did not stop at all on my watch.

Q. Between 8 and 12 o'clock.

A. Between 8 and 12 o'clock there was no stop.

Q. Now between 12 and 1.

A. Between 12 and 1 there was no stop. [66—24]

Q. Were your engines going all the time between 12 and 1 o'clock?     A. Yes, sir.

Q. How about between 1 and 2?

A. There was no stop.

Q. You say you went at slow speed during that time. How many revolutions was that?

A. At slow speed is about 20 revolutions.

Mr. McCLANAHAN.—I would like to correct counsel. I do not believe she was going at slow speed between 1 and 2.

Mr. DENMAN.—Well, I will lead him. At any rate we have got what slow speed means in turns of the engine.

Q. Now how long have you been with the "Selja"?

A. I have been a little more than three years.

Q. More than three years?

A. A little more than three years.

Q. How old is she?

(Deposition of Rambek Eggen.)

A. She is a little more than three years.

Q. You have been with her since the beginning then? A. Yes.

Q. You are familiar with the way she works and the various revolutions of her engines? A. Yes.

Q. You say that at 3:05 the slow bell was given?

A. Yes.

Q. And at 3:10 the engine had stopped?

A. Yes.

Q. How long would it take her to stop her speed going at the rate she was going at 3:10? About a minute, isn't it?

A. Oh, it would take perhaps two minutes.

Q. Not more than two minutes?

A. Do you mean to stop herself?

Q. Yes.

A. Oh, a minute to two or three minutes.

Q. About a minute, isn't it really, Chief?

A. No. Well, it would take her two minutes, I should think.

Q. About two minutes? A. Yes.

Q. That is at the outside?

A. Two or three minutes.

Q. Not more than three? A. No.

Q. You are sure of that? A. Yes. [67—25]

Q. More likely to be two than three, would it not?

A. Yes.

Q. Have you read the log of the captain here?

A. Yes.

Q. You see the statement that she was practically stopped at 3:10, do you not? A. At 3:10?

(Deposition of Rambek Eggen.)

Q. Yes, practically stopped.

A. Well, at 3:10 she was going slow; the engine was going slow at 3:10.

Q. But that is a fair statement, taking the period of time that she was very shortly after that?

A. Yes.

Q. Now your signal to go astern was given at 3:15, was it?     A. Yes.

Q. And you know these figures 3:05, 3:10 and 3:15 are accurate figures?     A. Yes.

Q. You stopped your engines, as I understand it, just as she struck?

A. No; a little while afterwards; perhaps a minute after.

Q. Perhaps a minute after?     A. Yes.

Q. So then according to your log you were going astern for three minutes and two minutes of that was before?     A. About three minutes.

Q. About three minutes?

A. Yes. It might have been  $2\frac{1}{2}$  or 3.

Q. So that you were going astern for two minutes before she struck and about a minute afterwards?

A. Yes, or about a minute and a half.

Q. What angle was the "Beaver" coming to your vessel when you first saw her?

A. I could not say exactly but I saw her just a little on the fore side of amidships.

Q. She was coming then at about right angles?

A. That is what I saw when she loomed up, she was a little ahead of amidships.

Q. And she was coming at about right angles,



(Deposition of Rambek Eggen.)

wasn't she, to your vessel?

A. Well, I could not say that; I did not take any [68—26] attention.

Q. She was coming head on for you? A. No.

Q. She was not coming head on? You were not approaching one another head to head? A. No.

Q. She was coming to your side? A. Yes.

Q. When you first saw her; that is true?

A. Yes.

Q. And pretty well around toward the side so that the angle was pretty nearly a right angle?

A. Yes, a little on the foreside, a little forward of amidships.

Q. How was the swell that day, southwesterly?

A. Well, the direction of the swell—I know we had the swell astern when we went in, something around the stern.

Q. Something around the stern? A. Yes.

Q. A little more on your starboard side, was it not, on your starboard quarter?

A. Yes, I should think it was about that.

Q. About three points, was it not?

A. I could not say what points.

Q. But it was practically over on the starboard quarter?

A. I know it was astern, and it was a little on the starboard.

Q. Now when your vessel stops her speed what effect does it have on her; does she slew?

A. When you stop her engine?

Q. Yes.

(Deposition of Rambek Eggen.)

A. Well, if she is deep in the water it will take no time before she is done, but if she is not, if she is light, and the engine has been working slow, it takes only a few minutes before she is done.

Q. I am talking about the slewing, the slewing from one side to another. For instance, you stop her speed. A. Yes.

Q. And she slows down to a stop?

A. Yes. [69—27]

Q. Now, does she proceed ahead on her course or does she veer from one side to another?

A. I am not able to speak of that.

Q. It depends upon the weather conditions, does it not?

A. Well, I am not familiar with that thing.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

**[Deposition of Alfred Larsen, for Libelant.]**

ALFRED LARSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Alfred Larsen.

Q. How old are you? A. 28.

Q. Where is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your business? A. Second officer.

Q. Did you have anything to do with the "Selja"?

A. Yes, sir.

Q. What was your position on the vessel?

A. Second officer.

(Deposition of Alfred Larsen.)

Q. What papers do you hold?

A. Chief officer's papers.

Q. How long have you held those papers?

A. 6 years.

Q. They were issued by the Norwegian Government?  
A. Yes, sir.

Q. When was your watch on November 22d, 1910, on the "Selja"?

A. From 8 in the morning until noon.

Q. Who did you relieve? A. The chief officer.

Q. Who was on the bridge when you went there?

A. The chief officer and the captain.

Q. What was the course of the "Selja" at the time you went on the bridge? A. South 52 east, true.

Q. How were your engines working?

A. Half speed.

Q. Was there a change in the course of the "Selja" after you [70—28] went on the bridge?

A. Yes, sir.

Q. What time?

A. It was a few minutes after 8.

Q. What was the change?

A. It changed to west magnetic.

Q. Was there a change in the speed of your vessel after you went on the bridge?

A. Yes; at the same time we changed the speed of the ship to dead slow.

Q. How long did you keep this west course?

A. Till 9:30.

Q. What did you do then?

(Deposition of Alfred Larsen.)

A. We changed the course again to east by north, magnetic.

Q. Did you change your speed at that time?

A. No, sir.

Q. How long did you keep this east by north course?     A. Till 11.

Q. Did you change then at 11?     A. Yes, sir.

Q. What was the course then?

A. West, magnetic, again.

Q. Did you change your speed at that time?

A. No, sir.

Q. How long did you keep this west course?

A. Up to 12.

Q. Up to 12 o'clock; that was the end of your watch?     A. Yes.

Q. Was there a change in the course before you left the bridge?     A. No, sir.

Q. What was the speed up to 12 o'clock?

A. Dead slow.

Q. Dead slow?     A. Yes, sir.

Q. Who relieved you on the bridge?

A. The third officer.

Q. During your watch what was the condition of the weather?

A. Dense fog, calm, and heavy westerly swell.

Q. What were you doing on the bridge during that period?     A. I was working at the whistle.

Q. Blowing the whistle?

A. Blowing the whistle, yes.

Q. How often did you blow the whistle?

A. About every minute.

(Deposition of Alfred Larsen.)

Q. Had you heard during your watch any other signals from other vessels? A. No, sir.

Q. Where was the captain during your watch?

A. He was on the bridge. [71—29]

Q. Did you have a lookout?

A. Yes; on the forecastle-head, on the forecastle.

Q. Who was he? A. A Chinese sailor.

Q. Was he a good man? A. Yes, sir.

Q. What did you do after you left the bridge at 12 o'clock?

A. I went down and had my dinner, and then I had a rest.

Q. How long did you rest?

A. Till about a quarter to 3.

Q. What happened at a quarter of 3?

A. The chief officer called me out and told me to go aft to the sounding machine.

Q. Did you go to the sounding machine?

A. Yes, I went at once.

Q. Where is that sounding machine located on your ship? A. On the poop.

Q. What side?

A. Well, it is about amidships, a little on the starboard side; just a little on the starboard side.

Q. On the poop, a little on the starboard side?

A. Yes; it is about amidships.

Q. Did you take any soundings after you got to the machine?

A. Yes; I commenced a quarter to 3 to take soundings every five minutes.

Q. Who was there with you at the time?

(Deposition of Alfred Larsen.)

A. There was two sailors.

Q. What were they doing?

A. They were pulling in the lead.

Q. What depth of water did you find while you were sounding?     A. Always 35.

Q. 35 what?     A. Fathoms.

Q. How long did you continue to take soundings?

A. The last one I had was 3:10.

Q. Do you know what the course of the ship was at that time?     A. No, sir.

Q. Do you know what the speed of the ship was at that time?     A. No, I did not look. [72—30]

Q. What happened after 3:10?

A. I commenced to take another sounding with the lead, and then I saw a dark mass on the port side of the ship.

Q. What was that dark mass that you saw?

A. It was the steamer "Beaver."

Q. What did you do when you saw the "Beaver"?

A. I was watching her.

Q. How long did you watch her?

A. Only about two minutes.

Q. Did you watch her until she struck you?

A. Yes, sir.

Q. Do you know what speed she was going when she was being watched by you?

A. No, I could not tell what her speed was, but I saw she had a good speed on her.

Q. How could you see that?

A. On the water, on the bow.

Q. Do you know what speed your vessel was mak-



(Deposition of Alfred Larsen.)

ing either astern or ahead at that time?

A. No, I did not pay any attention to it.

Q. Do you know how her engines were working after you saw the "Beaver"? Which engines?

Q. The "Selja's" engines.

A. I did not pay any attention at all.

Q. Did you see the place where the "Beaver" struck the "Selja"? A. No, I could not see it.

Q. Had you heard any whistles?

A. Yes, I heard one about 3 o'clock.

Q. You heard a whistle about 3 o'clock?

A. Yes, sir.

Q. Was that whistle on your boat?

A. No. I heard it off on the port side.

Q. About how much on the port side?

A. Well, I don't know. I just heard it. I did not take the bearing of it. I just heard it was on the port bow.

Q. Did you hear it after you heard it the first time?

A. Yes, sir. [73—31]

Q. How long did you continue to hear it?

A. Well, I heard it from about 3 o'clock to the collision.

Q. Did you hear any whistles from your own steamer? A. Yes, sir.

Q. During that period? A. Yes, sir.

Q. What were they? A. I did not count them.

Q. What were the whistles, one, two or three or a dozen? A. I did not count them.

Q. You did not count them? A. No, sir.

Q. What was the condition of the fog at the time

(Deposition of Alfred Larsen.)

you saw the ship, the "Beaver," first?

A. Oh, it was a dense fog, the same conditions.

Q. After the "Beaver" struck you, what did you do?     A. I was standing on the—

Q. I say, after the "Beaver" struck you, what did you do?

A. I was standing there on the poop and looking at her.

Q. After she struck you, did you still stand there?

A. Yes, sir.

Q. How long did you stand there?

A. A few minutes.

Q. Then what did you do?     A. I left.

Q. What did you do, please?

A. I went to the starboard lifeboat.

Q. What did you do then?

A. I tried to get her off, but the ship had already listed so much we could not get the boat out; there was about 15 men working; we tried two or three times to get them out, but we saw there was no use, we couldn't get her off, and we had to leave her.

Q. Then what did you do?

A. Then I got to the other boat on the starboard side, the gig; that was half down, and I went down there.

Q. You got into the gig?

A. Yes, and that boat been smashed up. [74—32]

Q. Who was in the gig when you got in?

A. The captain was there.

Q. Anyone else?

A. Yes; there was 10 or 11 men down there.

(Deposition of Alfred Larsen.)

Q. After the gig was smashed, what did you do?

A. I came into the water.

Q. Then what did you do?

A. I was there in the water about five or six minutes, and then I got hold of the tackle and got up on the deck again, and then I went right over on the other side.

Q. On the port side?

A. Yes; I went off on the port side, and I got into one of the "Beaver's" boats and that took me off.

Q. Did you jump into the water? A. No.

Q. You got into the "Beaver's" boat from the ship's side? A. Yes, from the ship's side.

Q. What kind of a whistle has the "Selja"?

A. A strong and a good whistle.

Q. What became of your ship's log, Mr. Larsen?  
Do you understand the question? A. No.

Q. Where is the ship's log? A. Oh; it was lost.

Q. How was it lost?

A. It was lost in the collision.

Q. Where was it at the time of the collision?

A. Well, I guess the captain had it down in the boat and he lost it from the boat.

Q. In the boat that was smashed? A. Yes, sir.

Q. After you landed here at this port, did you make out another log for November 22nd?

A. Yes, sir.

Q. What is that (showing "Libelant's Exhibit 'A' for Identification" to the witness)?

A. That is the log.

Q. Is that your signature attached to that log?

(Deposition of Alfred Larsen.)

A. Yes; there is my signature (pointing).

Q. Do you knew the other men who signed that?

A. Yes, sir.

Q. You know Bjorn's signature?      A. Yes.

Q. Is that your own signature (pointing).

A. Yes, sir. [75—33]

Q. Do you know Captain Lie's signature?

A. Yes, sir.

Q. And that is his signature, is it?      A. Yes, sir.

Mr. McCLANAHAN.—We offer this in evidence and ask that it be marked Libelant's Exhibit 2.

(The paper is marked Libelant's Exhibit 2.)

Q. When was the log which has been marked Exhibit 2 made out?

A. On the 22d, in the afternoon, some time—the first day afterwards.

Q. What day was the collision?      A. The 22d.

Q. And when did you make out the log?

A. The 23d.

Q. The day after the collision?      A. Yes, sir.

Q. The day after the collision?      A. Yes, sir.

Q. Did you lose anything in the collision?

A. I lost all I had.

Q. Have you made a list of what you lost?

A. Yes, sir.

Q. Have you put a value on what you lost?

A. Yes, sir.

Q. A value as of the time that you lost the goods—that is the value they were when they were lost?

A. Yes, sir.

Q. Let us see the list.      A. Yes, sir.

(Deposition of Alfred Larsen.)

Mr. DENMAN.—I will cross-examine him as to some of these.

Mr. McCLANAHAN.—Very well.

Mr. DENMAN.—Q. These suits of clothes, were they new suits? A. Yes, sir.

Q. Where did you get them?

A. In Portland, Oregon.

Q. How long before?

A. About 3 months before.

Q. Had no chance to wear them in the interval?

A. No. I used one of them once.

Q. And they are practically new?

A. Yes, they are new.

Mr. DENMAN.—We will accept this statement; we are satisfied with this.

Mr. McCLANAHAN.—It is admitted that the value of the personal [76—34] effects lost by the witness at the time of the collision was \$372.00. You may cross-examine.

Cross-examination.

Mr. DENMAN.—When was your last watch?

A. From 8 in the morning until 12 o'clock noon.

Q. From 8 until noon? A. Yes, sir.

Q. Heavy fog during all that time? A. Yes, sir.

Q. When did you begin to sound that day?

A. I commenced to sound at a quarter to 3.

Q. Now, were the soundings during all the time you were approaching land?

A. When I was on the bridge from 8 to 12 the captain was aft and the chief officer was aft also.

Q. How was the lead on your sounding apparatus,

(Deposition of Alfred Larsen.)

was it armored?      A. No; it was Lord Calvin's.

Q. Where is that situated?      A. On the poop.

Q. How far from the stern of the vessel?

A. Well, about 20 feet.

Q. As far as that?      A. Yes, sir.

Q. Would that clear your—      A. Yes.

Q. You say that this statement was made up.  
You signed this on the 23d, didn't you?      A. Yes.

Q. When was it made up?

A. The same time; after we made it up we signed it.

Q. You read this over very carefully, didn't you?  
You read this over carefully before you signed it?

A. Yes, sir.

Q. Did you read the translation into English that  
was made of it by the consul?      A. Yes, I saw it.

Q. Is that correct, that translation?      A. Yes, sir.

Q. Now, you stated that at 3 o'clock you heard a  
deep steam whistle ahead and from then on heard it  
about every minute, and that you answered the same,  
and at 3:05 you ordered slow speed [77—35] and  
that you heard the whistle coming nearer, and at 3:10  
you stopped the engine, being nearly at a standstill,  
and at 3:15 you saw the contour of the other vessel  
and then ordered full speed astern, and at the same  
time you gave three blasts of your whistle. That is  
correct, is it not?

Mr. McCLANAHAN.—I object to the question on  
the ground it is not properly stated; the witness has  
not stated anything of the kind.

Mr. DENMAN.—Just a minute. Let me cross-



(Deposition of Alfred Larsen.)

examine the witness.

Mr. McCLANAHAN.—You cannot do it unless you do it properly. The witness has made no such statement as you stated to him.

Mr. DENMAN.—Q. (Showing the witness Exhibit 2.) Read that in English. You see the portion I have marked there with a pencil and on the next page also; turn over to the next page also.

Mr. McCLANAHAN.—To save time, I will admit that is what the log says and that he signed the log.

Mr. DENMAN.—Q. You read this now, don't you—you can read it? A. Oh, yes.

Q. That is practically correct, isn't it; that is correct, that is true? A. Yes, that is true.

Mr. McCLANAHAN.—Let it appear that the witness is being shown the log that is introduced in evidence.

Mr. DENMAN.—Q. Well, you know that is a fact, don't you? A. Yes, that is a fact.

Q. Those statements there are correct? A. Yes.

Q. Now, you say it was heavy fog during all of the time of your watch. Tell me what speed you went at beginning with the beginning of your watch and to the end.

A. When I came up at 8 o'clock, we had half speed on, and a few minutes after 8 we changed our course and then we changed the speed to, dead slow.

Q. And then again what?

A. And then that speed we kept up the [78—36] whole watch.

Q. For the whole watch? A. Yes, sir.

(Deposition of Alfred Larsen.)

Q. That was from 8 o'clock until 12?

A. Yes, sir.

Q. Now, between 12 and 1, what speed did you go at?

A. I was not on the bridge; I was down.

Q. The same foggy conditions, were there not?

A. Yes, sir.

Q. Heavy fog continued right along until the collision, did it not?     A. Yes, sir.

Q. Before that log was prepared you all got together and talked the thing over, did you not?

A. Yes, sir.

Q. And you were all together when the log was prepared, were you not?     A. Yes, sir.

Q. And all understood what was going in it at that time?     A. Yes, sir.

Q. And that includes the master of the vessel—Captain Lie was there, was he not?     A. Yes, sir.

Q. And Mr. Halvorsen?     A. Yes, sir.

Q. And the third officer?     A. Yes, sir.

Q. How much water was she drawing?

Mr. McCLANAHAN.—I object to the question on the ground it is indefinite.

Mr. DENMAN.—Q. How much water was your vessel drawing at the time of the collision?

Mr. McCLANAHAN.—I still object to it on the ground it is indefinite.

Mr. DENMAN.—Q. Answer the question. How many feet forward?

A. I guess she was drawing about 17 feet.

Q. Forward or aft?     A. Aft.

(Deposition of Alfred Larsen.)

Q. How much forward?

A. Well, I could not say exactly.

Q. She was quite light forward, was she not?

A. It might be a foot or something less. I don't know anything about that. [79—37]

Q. What does she draw when she is fully laden?

A. What?

Q. What will she draw when she is fully laden; what will she draw when she has got a full cargo—23 feet? A. 23 feet 6.

Q. 23-6? A. Yes.

Q. Then she was quite light at this time, was she not? A. Yes.

Q. Very light, wasn't she?

A. She was a little more than half loaded.

Q. How much was her propeller under water? I mean how many feet would that be? You are the second officer of the vessel. About how much?

A. Well, it would be underneath the water.

Q. A little bit—not very much?

A. She would be underneath the water.

Q. But not much under? She would be pretty near the top at 17 feet draught?

A. Yes, about that.

Q. She would be pretty near the top, the surface of the water, at that draught? A. Yes.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

[Deposition of Axel Andersen, for Libelant.]

AXEL ANDERSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name?     A. Axel Andersen.

Q. What is your age, Mr. Andersen?     A. 29½.

Q. What is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth?     A. Yes, sir.

Q. What is your business?     A. Engineer.

Q. What papers do you hold?

A. I hold chief engineer's tickets; I held that for two years, and second engineer's tickets for four years. [80—38]

Q. By what government were these tickets issued?

A. Norway.

Q. Do you know the steamship "Selja"?

A. Yes, sir.

Q. What was your position on the "Selja"?

A. Second engineer.

Q. Were you on the "Selja" on the 22d of November, 1910, when she had a collision with the "Beaver"?     A. Yes, sir.

Q. What was your first watch on that day?

A. From 8 in the morning until 12 o'clock noon.

Q. When you went in the engine-room, who was in the engine-room?     A. The chief engineer.

Q. You relieved him, did you?

A. I relieved the chief engineer.

Q. Who relieved you?

(Deposition of Axel Andersen.)

A. The third engineer.

Q. How were the engines going when you went into the engine-room at 4 o'clock?

A. The engine was going slow speed.

Q. When was the first change after you went into the engine-room? A. Pretty soon afterwards.

Q. What was that change?

A. A change to dead slow.

Q. How long did the engines work dead slow after you went into the engine-room?

A. They worked dead slow during the whole of my watch.

Q. What was your steam pressure at that time?

A. It was kept between 160 and 170 pounds.

Q. What was your full steam? A. 180 pounds.

Q. Why were you keeping your pressure between 160 and 170? A. To prevent the steam blowing off.

Q. Why did you want to prevent the steam blowing off?

A. Not to obstruct the signals or whistles we might hear.

Q. Not to obstruct the signals or whistles you might hear on the bridge?

A. From other steamers that might be around us.

Q. Explain how this exhaust would obstruct the whistles of other steamers.

A. When the steam blows off it is a very sharp sound, [81—39] a hissing, and you can't hear anything but that sound when that steam blows off.

Q. When would that steam blow off, under what conditions?

(Deposition of Axel Andersen.)

were stopped was it that you heard this whistle on the port bow?     A. That is, how long it was after?

Q. How long after your own engines were stopped was it that you heard this whistle on the port bow?

A. Some minutes; four minutes; I did not take exactly the time; a little after that.

Q. When you heard this whistle on the port bow what did you do?

A. I went to the rail, to the port side, and looked in the direction where the sound came from.

Q. Was any one with you at that time?

A. At that time the chief engineer was beside me.

Q. Did you both go to the rail together?

A. We both went.

Q. What did you do when you went there?

A. I saw part of a ship [83—41] then.

Q. How long did you stay there?

A. Just a moment.

Q. Did you hear any bells in the engine-room at or about that time on your own ship?

A. After that time?

Q. At or about that time?

A. Yes, about that time.

Q. What were the bells?     A. Full speed astern.

Q. Was that full speed astern order heard by you before or after you had seen the ship on the port side?

A. Well, this was almost so one thing upon another.

Q. All one thing upon another?

A. I should think it was about the same time. I



(Deposition of Axel Andersen.)

cannot now say whether it was a little before or a little after.

Q. What did you do when you saw this ship ahead?

A. I run down in the engine-room, but before I went down there I looked over the side into the water.

Q. Over the side of your own ship?

A. Of my own ship.

Q. What did you look over there for?

A. Because it is the habit of me to do it, that when the bell rings in the engine-room, to see what speed the engine is working; you can see whether she is working forward or astern by looking over the side.

Q. How can you see that?

A. Because if the water comes from the propeller along the ship forward that proves that the engine is working astern; if not, the engine is working ahead.

Q. What did you see when you looked over?

A. I saw the back water from the propeller coming alongside, forward alongside the ship.

Q. How far forward had it reached when you saw it?

A. I should say something around the aft part of 3 hold. I did not measure it; I was just a moment and I run down.

Q. When you reached the engine-room how did you find the engines [84—42] working?

A. I found the engines working full speed astern.

Q. What happened after you reached the engine-room? A. I felt a shock on the port side.

Q. Were the engines changed, or did you receive any order from the bridge after that?

(Deposition of Axel Andersen.)

A. At the time of the collision.

Q. That is the list, is it?

A. That is the list (handing).

Q. Mr. Andersen, your watch was from 8 to 12?

A. Yes, sir.

Q. What was your speed when you went in there at 8 o'clock? A. Slow speed.

Q. And after that, a few minutes, it was changed to dead slow?

A. Pretty soon afterwards it was changed to dead slow.

Mr. DENMAN.—Q. When did you buy that overcoat? A. In Portland, Oregon. [86—44]

Q. How about the waterproof? A. In Norway.

Q. How long had you had the waterproof?

A. I had it since I was in Norway.

Q. How long ago was that?

A. Well, that is 2½ years, but we do not wear the clothes very much aboard in the ship; we very seldom put it on; that is another thing that when ashore they use it every day; we may use it two times a year, all the time we work.

Q. Then this waterproof coat was 2 years old and you paid \$16 for it in Norway, did you?

A. I beg your pardon.

Q. You paid \$16 for it in Norway.

A. Yes, in Norway.

Q. It was two years old then.

A. Well, it was two years old but it was just as good as new.

Q. And the black suit, how old was that?

(Deposition of Axel Andersen.)

A. That was bought at the same time, but that was a very dear suit.

Q. It cost \$30. A. \$30.

Q. And what is this item, 2 colored suits?

A. It is colored suits.

Q. Those were bought in Norway also?

A. One was right new; one was good.

Q. One was new and the other was old?

A. Yes, one new and the other was old.

Q. And the original cost price was \$25 and \$12; is that right? A. Yes, sir.

Q. Which was the old one, the \$25 one?

A. No, the other one.

Q. Now, the five blue serge suits for engine use; those cost you \$24 new, did they? A. Not new.

Q. What did they cost?

A. They cost more; they cost \$6 each new, when they are new.

Q. How old were they?

A. Some were practically new and some [87—45] were half a year old or a year; they were worth more than \$30 new altogether.

Q. Then you have made allowance all through this for age, have you, in your prices? A. What?

Q. You have made allowance for the age of these various articles in fixing your value here, have, you? A. Yes, sir.

Q. You made deductions?

A. Yes. I thought the things over, how long I have had them, but there are things I have forgotten to put down.

(Deposition of Axel Andersen.)

Mr. McCLANAHAN.—The same stipulation?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—It is stipulated that the value of the personal effects belonging to the witness lost in the collision was \$349.30.

Q. Mr. Andersen, you have been on the ship since she was launched?

A. No, sir. I came on six or seven months afterwards.

Q. Been ever since?      A. Ever since.

Cross-examination.

Mr. DENMAN.—Q. You did not stay very long by the ship's side before you went down below, did you? You were just there for half a second, were you not?      A. Just a moment.

Q. Just a moment.

A. Just to look over and look into the water and at the same time run down.

Q. You saw the other vessel and you heard your full speed astern signal given, didn't you, at about the same time?

A. Almost at the same time.

Q. The other vessel was coming on you at about right angles, was she not?      A. It appeared to me.

Q. At just about right angles?

A. Yes, sir.

Q. Then you immediately went below?

A. Yes, immediately. [88—46]

Q. And was she going full speed astern?

A. She was working full speed astern when I came down.

(Deposition of Axel Andersen.)

Q. And in that moment's glimpse you had time to see that the water from the propeller had come forward quite a distance on the side?

A. What is that?

Q. In that moment you saw that the water from the propeller had come quite a distance up the side of your vessel? That is correct, is it?

A. Yes, that is correct.

Q. Did you sign the log of the ship, the captain's log? A. I signed it; I signed one.

Q. You signed one but you saw the captain's log too, didn't you, at the same time? The two logs were prepared at the same time, weren't they?

A. Yes, they were.

Q. You were all together when that was done?

A. We were all together.

Q. You read over the captain's log?

A. Yes, sir.

Q. That is correct, isn't it? A. Yes, sir.

Q. You read that carefully, didn't you?

A. Yes, sir.

Q. And you all talked that over together?

A. Yes, and he read it over too.

Q. He read it over?

A. Yes, sir. The captain read it over.

Q. And you all agreed it was correct?

A. Yes, we did.

Q. And the same is true of the engineer's log, isn't it, also.? A. Yes, sir.

Q. About how many revolutions were you going when you were going dead slow—about 20?



(Deposition of Axel Andersen.)

A. About 20.

Q. And you had been going about 5 minutes under dead slow speed, had you, before the stop signal came? A. What time do you mean?

Q. Between 3:05 and 3:10?

A. About 5 minutes.

Q. Now did you go astern at all or were your engines going astern [89—47] reversing, after she struck? A. Yes, a little while afterwards.

Q. About half a minute?

A. I should say a minute.

Q. About a minute? A. About a minute.

Q. And altogether you were going astern about three minutes according to your log?

A. Something between two and three minutes it appeared to me.

Q. Well, it is about 3 minutes you have in your log; that is about correct, isn't it? A. Yes, sir.

Q. So that you were going about two minutes astern before she struck and about a minute afterwards; that is about correct, isn't it?

A. Two minutes before she struck?

Q. You say she went astern about a minute after she struck, a little less than a minute, and about two minutes before?

A. Well, the engine worked altogether about three minutes astern.

Q. About three minutes astern? A. Yes, sir.

Q. That would make it about two minutes before?

A. But I could not say exactly.

Q. Well, just about, that proportion?



(Deposition of Axel Andersen.)

A. About that, yes, sir.

Redirect Examination.

Mr. CLANAHAN.—I want to ask one question I omitted to ask.

Q. How did your vessel swing, if you know, on a full speed astern movement?

A. I cannot say because I have no experience; it is not in my line to know that.

Mr. McCLANAHAN.—That is all. [90—48]

**[Deposition of Arvid Bjorn, for Libelant.]**

ARVID BJORN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Arvid Bjorn.

Q. How old are you, Mr. Bjorn? A. 26 years.

Q. Where is your residence?

A. It is Christiansund.

Q. Norway? A. Yes, sir.

Q. You are a Norwegian by birth?

A. Yes, sir.

Q. What is your business? A. I am a seaman.

Q. Were you an officer on the steamship "Selja" at the time of the collision with the "Beaver"?

A. Yes, sir.

Q. What position did you hold?

A. Third officer.

Q. What papers do you hold?

A. I have got chief officer's papers.

Q. How long have you had chief officer's papers?

A. Since 1904.

Q. Issued by what government?

(Deposition of Arvid Bjorn.)

A. The Norwegian government.

Q. What was your first watch on November 22d, 1910?

A. From 12 midnight until 4 o'clock in the morning.

Q. Who did you relieve?

A. The second officer, Mr. Larsen.

Q. When you went on the bridge at midnight, November 22d, who was there?

A. The second officer.

Q. Anyone else?     A. He was the only officer.

Q. Who was at the wheel?

A. One of the Chinese quartermasters.

Q. Do you know anything about his competency?

A. He was a good man.

Q. What was the course of the "Selja" at the time you went on the bridge at midnight?

A. South 52 east, true.

Q. What was the speed of her engines?

A. Full speed.

Q. Was there a change made in that course after midnight?     A. No, sir.

Q. Did your engines remain full speed during your whole watch? [91—49]     A. No, sir.

Q. When was the first change in the engines?

A. About 2 o'clock.

Q. What was the weather when you first went on your watch?     A. Kind of hazy.

Q. Did it remain hazy all during your watch?

A. It became thicker fog.

Q. What time?     A. About 1 o'clock.

(Deposition of Arvid Bjorn.)

Q. Were you on the bridge alone during your whole watch?     A. No, sir.

Q. Who else was there?

A. The captain came on the bridge at 1 o'clock.

Q. One o'clock A. M.?     A. Yes, sir.

Q. Why did he come on the bridge?

A. I asked the captain through the speaking-tube from the bridge.

Q. What did you want with the captain?

A. I asked him to come up.

Q. Why?     A. Because it was foggy.

Q. Had you been blowing your whistle before 1 o'clock?     A. Not before, no.

Q. Not before?     A. No.

Q. What about after 1, did you blow your whistle?

A. At 1 o'clock I blowed the whistle.

Q. At 1 o'clock you blowed your whistle?

A. Yes, sir.

Q. How often was your whistle blown after 1 o'clock?     A. Every minute since.

Q. Did the fog continue after 1 o'clock until the end of your watch?     A. Yes, sir.

Q. You say there was a change in your engines at about 2 o'clock?     A. Yes, sir.

Q. Why was that change made?

A. Why it was changed?

Q. Yes.

A. We heard three blasts, signals, from a sailing [92—50] vessel.

Q. Where did you hear the three blasts from the sailing vessel?

(Deposition of Arvid Bjorn.)

A. I heard it on the starboard side,—the starboard bow.

Q. Was that the reason for changing your engines?     A. Yes, sir.

Q. What was the change?     A. Slow.

Q. How long did you hear the three blasts from the sailing vessel's horn?     A. Several times.

Q. Several times?     A. Yes, sir.

Q. Did the bearing change?     A. Yes, sir.

Q. Where was the sailing vessel at the time you heard her last blast?     A. She was far astern.

Q. What did the three blasts from the sailing vessel's horn mean to you?

A. It meant that the vessel was sailing the same way as we did.

Q. What direction was the wind at that time?

A. It was westerly.

Q. The wind then would be a little abaft of her beam?     A. Yes, abaft of the beam.

Q. After the sailing vessel had passed was there a change made in your engines?     A. Yes, sir.

Q. What was that change?     A. It was about—

Q. What was the change, not the time.

A. Stop.

Q. You were going slow and then stopped?

A. No, sir. It was full speed afterwards, after the sailing vessel.

Q. After the sailing vessel had passed you put your engines full speed ahead?     A. Yes, sir.

Q. Was there a change made in your engines after that?     A. After we had gone full speed ahead?

(Deposition of Arvid Bjorn.)

Q. Yes. A. Yes, sir.

Q. What was that change? A. Stop.

Q. What time was that?

A. About three-quarters of an hour afterwards.

[93—51]

Q. About three-quarters of an hour after the sailing vessel had passed you? A. Yes, sir.

Q. Why did you stop your engines at that time?

A. We heard a single whistle from a steamboat.

Q. Where was that? A. Ahead.

Q. On what side?

A. That would be on the—it was pretty near dead ahead.

Q. How often after hearing the first whistle from the steamer did you hear the whistle?

A. I heard it several times.

Q. What was the bearing of the steamer?

A. She passed us astern; she was going about northerly.

Q. She was going northerly? A. Yes, sir.

Q. How long did she take to pass you?

A. A few minutes.

Q. After she passed you was there a change then made in your engines? A. Full speed ahead.

Q. And was there a change made after the full speed ahead order? A. No, sir.

Q. That is at the end of your watch, at 4 o'clock, they were still going full speed? A. Yes, sir.

Q. What was the course at that time?

A. The same course.

Q. From the time the fog shut down on you what

(Deposition of Arvid Bjorn.)

was the condition of the weather after or until the end of your watch?     A. It remained very foggy.

Q. When you were relieved who were you relieved by?     A. The chief officer, Mr. Halvorsen.

Q. And the course then was what?

A. South 52 east, true.

Q. What did you do after you left the bridge?

A. At 4 o'clock?

Q. Yes.     A. I went to bed.

Q. When did you get up?

A. About 8 o'clock in the morning. [94—52]

Q. Do you know what the course of the steamer was at that time?     A. No, sir.

Q. Do you know what her speed was?

A. I don't know anything about that.

Q. Do you know of any change in the course of the ship after 8 o'clock? Wait a minute, I withdraw that question. When was your next watch?

A. On deck?

Q. Yes.

A. From 12 noon until the time the collision occurred.

Q. Between the time of your coming from your rest in your room did you notice any change in the vessel's course up to noon?     A. Yes, sir.

Q. What was the first change that you noticed?

A. I don't know the course.

Q. I am not asking you for it; was there a change?

A. Yes, sir.

Q. You don't know the course?     A. No, sir.

Q. Do you know how often the course was



(Deposition of Arvid Bjorn.)

changed? A. No, sir.

Q. Had you heard any whistles up to 12 o'clock noon? A. No, sir.

Q. When you went on the bridge at 12 o'clock noon, who was there? A. The second officer.

Q. Anyone else? A. No, sir.

Q. Where was the captain, do you know?

A. He was on the lower bridge.

Q. You were referring to the upper bridge?

A. Yes.

Q. Did the captain come onto the upper bridge during your second watch? A. Yes, sir.

Q. When did he come up there?

A. About soon after I came myself.

Q. And that would be soon after 12 o'clock?

A. Soon after 12 o'clock, yes.

Q. When you went on the bridge at 12 o'clock, who was at the [95—53] wheel?

A. A quartermaster.

Q. Do you know anything about his competency?

A. He was a good man.

Q. Did you have a man at the lookout?

A. Yes, sir.

Q. Who was he?

A. He was a sailor; one of the sailors.

Q. A Chinaman? A. A Chinaman.

Q. Do you know anything about his competency?

A. Yes, he was a good man, too.

Q. What was the weather when you went on the bridge at 12 o'clock? A. Foggy.

Q. What kind of a fog?

(Deposition of Arvid Bjorn.)

A. Heavy fog; dense.

Q. What was the course of the steamer at that time? A. At 12 o'clock?

Q. Yes. A. It was due west.

Q. What were your engines going at that time?

A. Dead slow.

Q. Was there a change in the engines after 12 o'clock? A. Yes, sir.

Q. What was the change? A. Half speed.

Q. When was that change made?

A. At 1 o'clock P. M.

Q. Was there a change in your course after 12 o'clock? A. Yes, sir.

Q. What was that first change?

A. It was from west to south 60 east.

Q. South 60 east; magnetic or true?

A. Magnetic.

Q. Do you know why that course was changed from due west to south 60 degrees east, magnetic?

A. Yes, I know.

Q. Why was it?

A. We were trying to get up on the land.

Q. Trying to get up on the land? A. Yes, sir.

Q. Did you want to go up on the land with your ship? A. No, it was not my intention.

Q. What was your intention?

A. We was going to get Point [96—54] Reyes, make Point Reyes.

Q. What was the speed of the ship when you took this course south 60 degrees east, magnetic?

A. Half speed.

(Deposition of Arvid Bjorn.)

Q. How long did you keep that course?

A. Past Point Reyes.

Q. What time was that, about?

A. About 2:50.

Q. About 2:50?      A. Yes.

Q. What did you do then with your course?

A. We changed.

Q. What was the change to?

A. South 65 east.

Q. Magnetic?      A. Yes, sir.

Q. Where would that head you for?

A. For the lightship.

Q. After your change of course at 1 o'clock did you hear any whistles off your ship?

A. Yes, sir.

Q. What was the first whistle you heard; what was it? After 1 o'clock what was the first whistle you heard?

A. There was the fog horn from Point Reyes.

Q. When did you hear that first?

A. About 2:30.

Q. 2:30. Where was the bearing?

A. It was on the port bow.

Q. Did that bearing subsequently change?

A. Yes, sir.

Q. Where was the fog horn on Point Reyes blowing when it was abeam of your ship—what time was that?      A. About 2:50.

Q. How often did this fog horn blow?

A. The Point Reyes fog horn?

Q. Yes.      A. Every 35 seconds.

(Deposition of Arvid Bjorn.)

Q. How do you know that? A. I timed it.

Q. How did you time it? A. With my watch.

Q. Up to that time had you heard any other fog signals? A. No, sir.

Q. What about your own whistle, was that being blown? A. Yes, sir.

Q. How often? A. Every minute.

Q. Who blew it? A. I did.

Q. When prior to this watch had you taken an observation? Do you [97—55] understand that question?

A. I had not taken any observation at all.

Q. When was the last observation on the "Selja" taken? A. It was taken in the forenoon.

Q. Where?

A. By the second officer and the captain.

Q. I say where? Where were you?

A. I am not quite sure I understand that.

Q. Did you take any observation on the "Selja" at all?

Mr. DENMAN.—The question is pretty general.

Mr. McCLANAHAN.—Q. Mr. Bjorn, do you know when you took your last observation?

A. When I took my last observation?

Q. Yes. A. That was the day before.

Q. What time was that?

A. That was at noon.

Q. At noon the day before? A. Yes, sir.

Q. Do you know whether that was the last observation that was taken on the ship? A. No, sir.

Q. You don't know? A. I know it was not.

(Deposition of Arvid Bjorn.)

Q. When was the last observation taken on the ship?

A. In the forenoon of the 22d, in the morning of the 22d of November.

Q. What time? A. I could not say.

Q. Who took that observation?

A. I heard that was the second officer and the captain.

Q. How was the observation taken?

A. I could not say.

Q. Was it foggy all that morning?

A. I could not say anything about this; I was not on deck at all at that time.

Q. Was this the 22d or the 21st you are speaking of?

A. I am speaking of the 22d, but I could not tell for sure.

Q. You cannot tell for sure what?

A. The observation, because I was not out on deck.

[98—56]

Q. You just heard there was an observation?

A. Yes, sir.

Q. Do you know when you heard the fog horn off Point Reyes, when it was off your beam at about 2:50, how far you were from the fog horn?

A. About two miles I should think.

Q. About two miles. When you heard it first at 2:30 how far were you from the fog horn?

A. Well, I should judge about a mile and a half.

Q. After this fog horn was heard off your beam did you hear any other fog signals before the colli-

(Deposition of Arvid Bjorn.)

sion? A. Yes, sir.

Q. What time was that? A. A little after 3.

Q. What was it you heard?

A. I heard a single whistle.

Q. Where was it? A. Ahead.

Q. On what bow? A. Port.

Q. Did you know what it was at the time you heard it? A. No, sir.

Q. What did it sound like? How did it sound?

A. It sounded deep, very deep whistle.

Q. Near or far? A. Far off.

Q. Did you hear that whistle any more after you heard it the first time? A. Yes, sir.

Q. How often? A. Several times.

Q. With reference to the time of the collision how often did you hear it?

A. With reference to the collision?

Q. How far did you hear it after you first heard it? Did you hear it up to the time of the collision?

A. Yes, sir.

Q. How often was it blowing?

A. I got it about 57 or 58 seconds between.

Q. Between the whistles?

A. Between the whistles.

Q. When did you time this whistle ahead?

A. I timed it right after the captain had slowed down our engine. [99—57]

Q. When did your captain slow down the engine?

A. That was 5 minutes past 3.

Q. It was after that that you timed it?

A. Yes, sir.



(Deposition of Arvid Bjorn.)

Q. At the time the captain slowed down the engines did you know it was a steamer?

A. I was not sure.

Q. When did you become sure that it was a steamer?

A. I was sure it was a steamer at the time the captain stopped the engine.

Q. What made you sure of the whistle being the whistle of a steamer?

A. She was coming—the sound was—nearer and nearer.

Q. Did your timing of the whistle have anything to do with the conclusion that you came to that it was a steamer's whistle?      A. Yes, sir.

Q. Why did that have anything to do with it?

A. Because the intervals between each whistle was not regular.

Q. That led you to believe it was a steamer?

A. Yes, sir.

Q. Had the whistle, the sound of the whistle, changed its bearing from the first time you heard it?

A. It was still on the port bow.

Q. Had it changed in its bearing?

A. It was coming nearer.

Q. It changed in its bearing?

A. It was coming nearer.

Q. It came nearer?      A. Yes, sir.

Q. What time did your engines stop, the "Selja's" engines?      A. At 10 minutes past 3.

Q. How do you know that was the time?

A. I looked at the clock.

(Deposition of Arvid Bjorn.)

Q. How do you know he stopped them?

A. How I know they stopped the engine?

Q. Yes.      A. The telegraph.

Q. You saw him do that?      A. Yes, sir.

Q. What were you doing at that time?

A. I was standing blowing the whistle. [100—58]

Q. How long after you stopped your engines was it before you saw the "Beaver"?

A. When I stopped the engines, when I saw the "Beaver"?

Q. You say you stopped the engines at 3:10; how long after that was it that you saw the "Beaver"?

A. I did not look at the clock so I couldn't say for sure.

Q. Was it some minutes?      A. A few minutes.

Q. A few minutes afterwards?      A. Yes, sir.

Q. Where did you first see the "Beaver"?

A. When I first see her.

Q. Where did you first see her?

A. About three points on my port bow.

Q. Did you hear any whistles at that time?

A. When I saw her, yes.

Q. What were the whistles you heard at that time?

A. Three whistles.

Q. From the "Beaver"?      A. Yes, sir.

Q. What did you do when you heard the three whistles?

A. I blew three whistles immediately after her.

Q. Anything done with your engines at that time?

A. The captain ordered full speed astern.

Q. How soon after you blew the three whistles did

(Deposition of Arvid Bjorn.)

the captain order full speed astern?

A. Immediately.

Q. After you had blown the three whistles what did you do?

A. After I blowed the three whistles?

Q. Yes.

A. I went over to the rail on the port side, on the bridge.

Q. What did you do there?

A. I was standing watching the "Beaver."

Q. How was she coming?

A. How was she coming?

Q. Yes.

A. She was coming at good speed. [101—59]

Q. How do you know that?

A. I saw the way she was cutting the water, the foam on her bow.

Q. Did you watch her until she struck you?

A. Yes, sir.

Q. Did you see her strike you?      A. Yes, sir.

Q. What did she do after she struck you?

A. What is that?

Q. What did the "Beaver" do after she struck the "Selja"?      A. She rebounded.

Q. What kind of a hole did she make in the "Selja"?      A. What kind or how much?

Q. Yes, how much of a hole; what kind of a hole was it?

A. I could not say for sure, but about 10 feet.

Q. What was the angle at which she struck?

A. It would be about a right angle.

(Deposition of Arvid Bjorn.)

Q. About a right angle?      A. Yes, sir.

Q. When your engines are put full speed astern will your vessel slew any; will she swing any?

A. Will she swing any?

Q. Yes.      A. She will swing.

Q. Which direction will she swing?

A. She will swing over to starboard.

Q. Her bow will swing to starboard?

A. Her bow, yes.

Q. And her stern to port?      A. Yes, sir.

Q. Had your vessel swung any at the time you blew the three whistles?      A. I don't know.

Q. Did she swing any after that?

A. She must have.

Q. Do you know what direction your vessel was going at the time of the impact?      Was she going ahead or going astern?      A. She was going astern.

Q. What makes you think that?

A. As I said, she was, the vessel, my vessel was stopped; had been stopped about five minutes I should say. [102—60]

Q. Your vessel had been stopped or the engines had been stopped?

A. I mean the engines had been stopped about five minutes, and before that we had been going slow; then she got full speed astern and she must have been going astern.

Q. At the time of the collision?      A. Yes, sir.

Q. What did you do after the collision?

A. I went right away, immediately after I went down in the lower bridge.

(Deposition of Arvid Bjorn.)

Q. From the port side? A. From the port side.

Q. Could you see the "Beaver" at that time?

A. Yes, sir.

Q. At that time the "Beaver" was clear of the "Selja," was she? A. Yes, sir.

Q. Do you know how your ship was going at that time? A. She was going astern.

Q. How do you know?

A. I saw the back water of her propeller.

Q. Which way was it running?

A. It was going forward to the bow.

Q. Before leaving the bridge do you know whether your engines were changed? A. Yes, sir.

Q. Who gave the order? A. Captain Lie.

Q. What was the order? A. Stop.

Q. When you got down to the lower bridge what did you do then?

A. I helped to get the boat out; the gig out.

Q. On what side? A. On the port side.

Q. Who got into that boat?

A. The captain's wife and his two children, the third engineer and some Chinamen.

Q. What did you do then? A. After that?

Q. Yes.

A. I went over on the port side to the house, the officers' house, and helped there to get the port lifeboat out.

Q. Then what did you do?

A. After we got that out I got the other Chinamen down there and went down there myself. [103—61]

Q. Into the port lifeboat?



(Deposition of Arvid Bjorn.)

A. Into the port lifeboat.

Q. And from there you went to the "Beaver"?

A. Yes, sir.

Q. How soon after the collision was it that the "Selja" sank?

A. It was only a matter of minutes, about.

Q. Only a matter of minutes? A. Yes, sir.

Q. What kind of a whistle has the "Selja"?

A. She had a good whistle, a strong whistle.

Q. Mr. Bjorn, did you sign the bridge log for November 22d after coming on shore?

A. Yes, sir.

Q. When did you sign that?

A. The day after, the morning after.

Q. That was on the 23d? A. Yes, sir.

Q. Did you lose anything by the collision?

A. Yes, sir.

Q. Did you make a list of what you lost?

A. Yes, sir.

Q. Did you put the prices down? A. Yes, sir.

Q. Were these prices the value of the things in your judgment at the time they were lost?

A. Yes, sir.

Q. Let us see the list.

A. (Producing.) I lost all I had.

Q. Who was on the bridge at the time you heard that steamer's whistle for the first time a little after 3?

A. The captain and I believe the chief officer was there at the time, or right afterwards.

Mr. DENMAN.—This is all right.



(Deposition of Arvid Bjorn.)

Mr. McCLANAHAN.—It is stipulated that the value at the time of the collision of the personal effects lost by the witness was \$249.90.

Mr. DENMAN.—Yes.

Cross-examination.

Mr. DENMAN.—Q. Now, the fact is, isn't it, that during that fog which came on you early in the morning or late at night the [104—62] night before you were going at full speed at times during the fog?

A. Yes.

Q. And you went on watch at 12 o'clock before the collision? A. At noon, yes.

Q. And you had charge of the whistle cord from then until the time that the full speed astern was given, did you not? A. Yes, sir.

Q. So that you were in the pilothouse during all that time? A. I was on the bridge.

Q. Whereabouts did you pull the whistle from? Where was that attached?

A. That is attached on the bridge, right just over the compass; there is a handle hanging down.

Q. You were right beside that during all that period, were you? A. What is that?

Q. You were right beside the whistle during all that time, were you? A. Yes, sir.

Q. Between 12 o'clock noon and the time full speed astern was given? A. Yes.

Q. And the captain came up on the bridge about 3 o'clock? A. In the afternoon?

Q. Yes. A. He was there from before 1.

Q. Before 1? A. Yes.

(Deposition of Arvid Bjorn.)

Q. How high is the bridge above the water with the ship laden as she was?

A. I could not tell you for sure, but between 9 and 10 yards, or a little more.

Q. 9 or 10 yards; that is about 33 feet.

A. I don't remember how many feet it is in a yard.

Q. About three feet in a yard.

A. Yes, about that.

Q. It is about between 30 and 35 feet above the water? A. Yes. [105—63]

Q. How wide is the "Selja"?

A. She is about 49 or 50 feet.

Q. 50 feet wide? A. Yes, about.

Q. Now, as I understand it, at 3:15 you saw the "Beaver" coming on you at about right angles and you say she seemed to have speed on at that time?

A. Yes.

Q. And she continued and finally struck you at about right angles somewhere about 70 feet aft the bow? A. 70 feet aft the bow?

Q. Yes. A. Yes, something around there.

Q. Somewhere around there? A. Yes, sir.

Q. And as I understand it it was the captain that gave the order to go full speed astern, was it not?

A. Yes, sir.

Q. Did he whistle it down through the speaking tube or signal it?

A. When he gave the order to the engine-room?

Q. Yes. A. He gave it by the telegraph.

Q. That was right alongside of him, was it not?

A. Yes, sir.

(Deposition of Arvid Bjorn.)

Q. You and the captain knew from about 3:05 that there was a vessel approaching, didn't you?

A. Not from 3:05, no, sir, we didn't know.

Q. Well, you say that at 3 o'clock you heard your first whistle in the distance.

A. Some minutes after 3 I heard the first whistle, yes; a little after 3.

Q. By the way, you know this log; that was signed by you? A. Yes, sir.

Q. When was that made up?

A. When the log was made?

Q. When was that log made up?

A. When I came ashore.

Q. You all got together and talked it over, did you not? A. Yes, sir.

Q. The engineers and the captain and the deck officers as well? A. Yes, sir. [106—64]

Q. And you all read it over afterwards?

A. Yes, sir.

Q. And the engineers and all of you agreed that the log was correct, did they not? A. Yes, sir.

Q. In the log you state that you heard the first whistle at about 3 o'clock; that is about correct, is it not? A. Yes, about. A little after I said.

Q. You say at 3 o'clock in the log? A. About 3.

Q. So that you heard the whistle for about five minutes before you gave dead slow speed, didn't you?

A. The vessel was going at half speed up to 3.

Q. At 3 o'clock you were going at half speed, you say? A. Yes.

Q. Then between 3 and 3:05 you concluded to go

(Deposition of Arvid Bjorn.)

dead slow speed and at 3:05 you went at dead slow speed; is that correct?

A. At 3:05 slowed her down.

Q. Because you heard this vessel approaching; that is correct, is it not?      A. Yes.

Q. Now, you knew from 3:05 that there was a vessel approaching you?

A. We didn't know that before about the time the captain ordered the engines stopped.

Q. And the captain was right by the telegraph where he could give any signal he wanted to?

A. Yes, he was right there.

Q. He stayed right there up until the reversing signal was given?      A. Yes, sir.

Q. He did not move away from there?

A. No, sir.

Q. So he would be able to give a quick warning if it was necessary?      A. Yes, sir.

Q. You are sure of that?

A. I am absolutely sure of that.

Q. That was up to 3:15 when the reversing signal was given.

A. I did not look at the clock at the time of the reversing.

Q. I mean up to the time the reversing signal was given. [107—65]      A. Yes, sir.

Q. He was not away five feet during that time?

A. No, sir.

Q. So he could be right there and give his command, if necessary?      A. Yes, he was right there.

Q. You signed this log on the 23d, didn't you?

(Deposition of Arvid Bjorn.)

A. Yes, sir.

Q. Then you signed it again yesterday, didn't you, or was it the day before?

A. That was the day before.

Q. The day before yesterday; that was Wednesday of this week? A. Yes, sir.

Q. Did you look over the engineer's log?

A. No, sir, I did not.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

(A recess was here taken until 2 P. M.) [108—66]

#### AFTERNOON SESSION.

Mr. McCLANAHAN.—I suppose it may be shown by stipulation we have consented to Captain Rasmussen acting as the Norwegian interpreter.

Mr. DENMAN.—Yes.

Mr. PAGE.—What is your full name, Captain?

Mr. RASMUSSEN.—Rasmus Rasmussen.

(Rasmus Rasmussen was sworn to act as interpreter.)

#### [Deposition of Peder Hansen, for Libelant.]

PEDER HANSEN, called for the libelant, having been duly sworn through the interpreter, testified as follows:

Mr. McCLANAHAN.—Q. What is your full name? A. Peder Hansen.

Q. How old are you? A. 36 years.

Q. Where do you live? A. In Bergen, Norway.

Q. What is your business? A. I am engineer.



(Deposition of Peder Hansen.)

Q. Are you a native born Norwegian?

A. Yes, sir.

Q. Can you speak the English language?

A. No, sir.

Q. What papers do you hold?

A. Third engineer's papers.

Q. How long have you held them?

A. Six years.

Q. Were you third engineer on the "Selja" on the 22d of November, 1910?     A. Yes, sir.

Q. What was your watch on that day?

A. From 12 to 4 in the morning.

Q. When you went on watch at 12 o'clock midnight what were your engines doing?

A. Full speed.

Q. Did you receive any order from the bridge after 12 o'clock?     A. Yes, sir.

Q. What was the order?     [109—67]

A. He says he got the orders to slow down to half speed between 2 and 3 o'clock.

Q. After this order to slow to half speed did you receive any other orders on that watch?

A. I got the orders to stop.

Q. When you got this order for half speed did you execute it?     A. Yes, sir.

Q. When you got the stop order did you execute it?     A. Yes, sir.

Q. When you left your watch at 4 o'clock what were your engines doing?     A. Full speed.

Q. What was your next watch, Mr. Hansen?

A. From 12 to 4 in the afternoon.



(Deposition of Peder Hansen.)

Q. When you went to the engine-room at 12 o'clock noon what were your engines doing?

A. Very slow.

Q. Does that mean dead slow?

A. Dead slow ahead; just about steerage way on the ship.

Q. After you went on watch at noon did you receive any other orders touching your engines?

A. I got the order at 1 o'clock to go half speed.

Q. Did you execute that order? A. Yes, sir.

Q. How soon after you received it?

A. He says, I got that order at 3:05 in the afternoon; at 3:05 o'clock in the afternoon.

Q. (Addressing the interpreter.) I guess you did not understand my question. We are speaking of the order at 1 o'clock. Turn back and read it, Mr. Reporter.

(The reporter reads the question.)

Q. After he received the order at 1 o'clock to go half speed how soon did he execute it?

A. Right off.

Q. After you had received the order at 1 o'clock what was the next order you received?

A. He says, I got orders at 3:05 to go very slow.  
[110—68]

Q. (Addressing the interpreter.) Did he say "very" slow?

The INTERPRETER.—Very slow.

Mr. McCLANAHAN.—Ask him if he said that.

The INTERPRETER.—He said "slow."

Mr. McCLANAHAN.—Q. Then he got an order

(Deposition of Peder Hansen.)

at 3:05 to go slow?     A. To go slow.

Q. How soon after receiving that order did he execute it?     A. Right off.

Q. After the order at 3:05 to go slow, did he receive any other order?

A. He says, I got orders at 3:10 to stop.

Q. When did he execute that order?

A. Right off.

Q. After that order did he receive any other orders?

A. He says, orders 3:15 to go full speed astern.

Q. When did he execute that order?

A. Right off.

Q. Who was in the engine-room when you received the order to go full speed astern?

A. Myself and the oiler.

Q. Anyone there but himself and the oiler?

A. No; that was all.

Q. After you received the order full speed astern did anyone else come into the engine-room?

A. He said, a half minute after he got the order the chief engineer came there.

Q. Anyone else?

A. And the second engineer; the two of them came in.

Q. What happened after that second engineer and chief engineer reached the engine-room?

A. We went full speed astern.

Q. Who received that order full speed astern?

A. Mr. Hansen.

Q. You were at the telegraph?     A. Yes, sir.

(Deposition of Peder Hansen.)

Q. Who executed it. (Addressing the interpreter.) I said, "Captain, who executed it"?

The INTERPRETER.—It was Hansen that worked the machine astern. [111—69]

Mr. McCLANAHAN.—I thought the witness had just stated that he worked the telegraph.

The INTERPRETER.—He said he worked the machine; this was Hansen who worked the engine astern. I asked him who worked the engine when the chief engineer and the second engineer came to him and he said it was him, he worked the engine himself.

Mr. McCLANAHAN.—Well, put it this way: When you received the order full speed astern from the telegraph who operated the engine and put it full speed astern?

The INTERPRETER.—It was this man that put the engine astern and went full speed astern.

Mr. McCLANAHAN.—What is the word "engine" in Norwegian, Mr. Interpreter?

The INTERPRETER.—Engine is the "machine."

Mr. McCLANAHAN.—"Machine" is the Norwegian for it, then?

The INTERPRETER.—Yes.

Mr. McCLANAHAN.—Q. What was the next order after you received the order full speed astern?

A. Stop.

Q. Was the chief and the second engineer in the engine-room when the stop order was given?

A. Yes.

Q. Who took that order from the telegraph?

(Deposition of Peder Hansen.)

A. It was Mr. Hansen.

Q. Who operated the engine?

A. The chief engineer.

Q. How soon after the order to reverse full speed astern was the order executed by the witness? (Addressing the interpreter.) Are you sure you have got the question right, Captain? I am told you are not giving the right question. What question are you asking the witness?

The INTERPRETER.—Well, I asked him how soon he got the order to stop the engine.

Mr. McCLANAHAN.—That was not my question, Captain. My question [112—70] is: how soon after he got the order full speed astern did he execute it? A. Right off.

Q. Between the order full speed astern and the stop order had anything happened in the engine-room? A. No, nothing.

Q. Did you feel the impact of the collision?

A. Yes, I felt it.

Q. Did not that impact come between the full speed astern and the stop order? A. Yes, sir.

Q. After the stop order from the bridge was there any other communication received in the engine-room from the bridge?

A. The captain, he spoke in the trumpet for everybody to come up out of the engine-room.

Q. What was your steam pressure when you put your engines full speed astern?

A. About 175 pounds.

Q. What kind of a whistle has the "Selja"?

(Deposition of Peder Hansen.)

A. Very good.

Q. Did you lose anything by this collision, Mr. Hansen? A. I lost all of it.

Q. Have you got a list of your things lost?

A. Yes; it is all there, the price and everything (producing).

Q. Is the price the value of the articles lost as of the time of the collision?

A. Yes; he says it is just right as he paid for it.

Mr. DENMAN.—That is satisfactory.

Mr. McCLANAHAN.—It is stipulated that the value of the personal effects lost by the witness as a result of the collision was \$292.50.

Cross-examination.

Mr. DENMAN.—Q. Did you sign this log (showing witness Exhibit 1)? A. Yes, sir.

Q. I notice in the log you say you were backing for three minutes; is that correct?

A. Between two and three minutes. [113—71]

Q. The log says three minutes. Is that correct?

A. He says cannot exactly tell because he did not look at the watch, but it is between two and three minutes.

Q. He is certain that it was more than two minutes? A. Yes; he says a little more than two.

Q. Did you run the engine astern after the vessel struck? A. Yes, sir.

Q. How long was that, about half a minute?

A. For a minute.

Q. Is he sure of that? Was it not less than a minute? Was it not between half a minute and one



(Deposition of Peder Hansen.)

minute? A. About a minute.

Q. Did you look at the watch for any of these?

Mr. McCLANAHAN.—I object to the question on the ground it is indefinite, any of these.

Mr. DENMAN.—Q. Any of these estimates of time as to how long she was backing, did you look at the watch? A. No, he didn't look at the watch.

Q. To determine how long she was backing any of the periods?

A. I did not look at a watch because I did not have the time.

Q. When was the log made up—this document here that you signed, when was that composed? (Showing the witness Exhibit 1.)

A. The next day after we came ashore, November 23d.

Q. Did you sign it on the 23d? A. Yes, sir.

Q. Did you sign another one on Wednesday of this week? A. Yes, sir.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all. [114—72]

(LIBELANT'S EXHIBIT 1—Transmitted under separate cover as per stipulation and order of Court embodied in this Transcript. See Exhibits.) [115]

(LIBELANT'S EXHIBIT 2—Transmitted under separate cover as per stipulation and Order of Court embodied in this Transcript. See Exhibits.) [116]



**[Commissioner's Certificate to Depositions of Axel  
Andersen et al.]**

United States of America,  
State and Northern District of California,  
City and County of San Francisco.

I, James P. Brown, a United States Commissioner for the Northern District of California, do certify that, in pursuance of the stipulation hereunto annexed, on Friday, December 2d, 1910, at the hour of 9 o'clock A. M., at the office of Messrs. McClanahan & Derby, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, witnesses on behalf of the libelant in the cause entitled in the caption hereof, and Messrs. McClanahan & Derby appeared as Proctors for the libelant, and William Denman, Esq., and Charles Page, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctors for the libellee and claimant, and the said witnesses, being by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in said cause, and being carefully examined, deposed and said as appears by their depositions hereto annexed.

I further certify that by stipulation of counsel Rasmus Rasmussen was sworn to act as interpreter in the examination of the witness Peder Hansen.

I further certify that the said depositions were

then and there taken down in shorthand notes under my personal supervision by Edward W. Lehner, a competent stenographer, and were by him put into typewriting; and I further certify that, by stipulation of the proctors for the respective parties, the reading over of the depositions to the witnesses and the signing thereof was duly waived.

Accompanying said depositions and annexed thereto and forming [117—73] a part thereof are Libellant's Exhibits 1 and 2, introduced in connection therewith and referred to and specified therein.

I further certify that I have retained the said depositions in my possession for the purpose of delivering the same with my own hands to the United States District Court for the Northern District of California, the Court for which the same were taken.

And I further certify that I am not of counsel nor attorney for any of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the City and County of San Francisco, State of California, this 13th day of December, 1910.

[Seal]

JAS. P. BROWN,

United States Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed Dec. 13, 1910. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [118—74]

**[Testimony Taken Before Commissioner.]**

**VOL. I.**

SATURDAY, JUNE 10th, 1911.

MONDAY, JUNE 12th, 1911.

WEDNESDAY, JUNE 14th, 1911.

THURSDAY, JUNE 15th, 1911.

FRIDAY, JUNE 16th, 1911.

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*In the District Court of the United States in and for  
the Northern District of California.*

OLAF LIE et al.,

Libelants,

vs.

The American Steamship, "BEAVER," etc.,

Respondents.

BE IT REMEMBERED that on Saturday, June 10th, Monday, June 12th, Wednesday, June 14th, Thursday, June 15th, Friday, June 16th, Saturday, June 17th, 1911, and Friday, July 21st, Saturday, July 22d, Monday, July 24th, Tuesday, July 25th, Wednesday, July 26th, Friday, July 28th, Saturday, July 29th, Monday, July 31st, 1911, and Tuesday, August 1st, Thursday, August 3d, Friday, August 4th and Monday, August 7th, 1911, pursuant to order of reference to take and report the testimony herein, personally appeared before me James P. Brown, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., William H. Stewart, Olaf Lie, Adolph Julius Frey, David W. Dickie, Lionel Heynemann, James Dickie, Robert E. Judson, Joseph W. Ettershank, John Albrethsen, Frederick Amor, John Hanson, Robert S. Paul, R. B. Seike, Carroll C. Dickson, R. F. Lopez, Octavia Buckingham, William Kidston, John K. Bulger, E. B. McClanahan, William W. Broaddus, Johanne Lie, A. J. Johnson, Edward Johnson, George Scott, Alexander Swanson, J. E. McCulloch, A. G. McAdie, F.

Westdahl, [120\*—1†] William Denman, John Von Helms, Kowlson Townsend, and John Hyslop, witnesses produced on behalf of the libelants and respondent.

Messrs. McClanahan & Derby, appeared as Proctors for the Libelants, Charles Page, Esq., and William Denman, Esq., appeared as proctors for the respondent, and L. T. Hengstler, Esq., appeared as proctor for the claimants, and the said witnesses having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth: [121—1½]

**[Testimony of William H. Stewart, for Libelant.]**

Saturday, June 10th, 1911.

WILLIAM H. STEWART, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your name?

A. William H. Stewart.

Q. What is your occupation?

A. Surveyor to Lloyds' Register, Marine Surveyor.

Q. How long have you been engaged in that business? A. About 11 years.

Q. You were associated with Captain John Metcalfe? A. Yes.

Q. And he is also a surveyor for Lloyds?

A. Yes, sir.

Q. Do you know the steamship "Beaver"?

A. Yes, sir.

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\*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Testimony as same appears in Certified Transcript of Record.



(Testimony of William H. Stewart.)

the starboard side that hole was pretty nearly 10 feet from the stem. [123—3]

Q. Those are the notes you refreshed your memory from? A. Those are the notes.

Q. Let me take a look at them, if you will, please.

A. Yes (handing).

Mr. DENMAN.—That is all.

[**Testimony of Captain Olaf Lie, for Libelant.**]

OLAF LIE, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your age, Captain? A. 37.

Q. Where is your residence? A. Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. You do not want an interpreter, do you?

A. No, sir.

Q. You were the master of the steamship "Selja"?

A. Yes, sir.

Q. The vessel that was sunk in this collision?

A. Yes, sir.

Q. What was your first experience, Captain?

A. Well, I was six years before the mast.

Q. And after that what was your next experience in the line of your business?

A. I went into the Government Nautical School and studied at that school for six months.

Q. When was that? A. 1897 and 1898.

Q. Was that the Government Nautical School of Norway? A. Of Norway, yes.

Q. For what purpose did you enter the school at



(Testimony of Captain Olaf Lie.)

that time? A. To get a mate's certificate.

Q. Did you get a mate's certificate?

A. Yes, sir.

Q. After passing your examination?

A. Yes, sir.

Q. What was your next experience?

A. I served my time in the Norwegian Navy.

Q. That was compulsory, was it?

A. Yes, sir. [124—4]

Q. For how long was that?

A. From May to July, about three months.

Q. What year? A. 1898.

Q. After serving your time in the Norwegian Navy what was your next experience?

A. I joined a schooner as mate, first mate.

Q. After that what was your next experience?

A. On a sailing bark I became second officer.

Q. What was your next experience after that in the line of your profession?

A. I went in the same school as I passed as a mate for an instructor.

Q. That is, you became an instructor in the Government Nautical School? A. Yes, sir.

Q. In which you had passed as mate?

A. Yes, sir.

Q. How long were you an instructor in this Nautical School? A. Nearly seven months.

Q. Do you remember the time?

A. From the beginning of October, 1899, to the latter end of April, 1900.

Q. After leaving the Government school, what

(Testimony of Captain Olaf Lie.)

was your next experience?

A. I made a few trips in an excursion steamer on the coast of Norway.

Q. In what capacity?      A. Seaman.

Q. For how long a time was that?

A. About three months.

Q. After quitting that service what did you next do?

A. I entered the Government Nautical School in Bergen to pass as master.

Q. When was that?

A. I commenced that the first of September, 1900.

Q. How long were you engaged in your studies for that examination?

A. Engaged in the studies up to the first of February, 1901.

Q. Then you took your examination?

A. Yes, sir. [125—5]

Q. How long did that examination last?

A. Nineteen days.

Q. Did you pass?      A. Yes, sir.

Q. How many were in the class?

A. There were 60 that passed that year.

Q. What was your rank in passing?

A. At the head of the class.

Q. What, after passing and securing your master's papers, did you do next?

A. I became second officer of a coasting steamer.

Q. Who is the owner of the "Selja"?

A. Wilhelm Jebsen.

Q. When did you first enter the service of Wilhelm

(Testimony of Captain Olaf Lie.)

Jebsen? A. The middle of November, 1901.

Q. What was the first vessel belonging to Wilhelm Jebsen that you had any connection with?

A. The "Symra."

Q. What was your connection with that vessel?

A. Chief officer.

Q. When did you associate yourself first with the "Symra"?

A. I went on her the middle of November, 1901.

Q. The middle of November, 1901; that was at the time you first entered the services of Wilhelm Jebsen? A. Yes, is the first time.

Q. Now, Captain, how long were you first officer with the "Symra," until what date?

A. To the 15th of August, 1904.

Q. Will you tell us now briefly your sea experience on the "Symra," starting with your first voyage.

A. I joined her at Montreal, Canada, and from Montreal we went to Newport News, loaded a cargo of coal there for Manila; from Manila we went back to Boston; from Boston we went to Cape Brittain, Canada, and traded on that coast for six months during the summer of 1902; from there we left in January, 1903, for a place close to Savannah, called Sapolo, and loaded lumber for [126—6] Bourdeux and Aberdeen; from Aberdeen we went to Bergen, arriving at Bergen the 11th of March, 1903. I stayed home for a month during which time I got married. I left Bergen again Saturday, the 11th of April—

Q. What year?

A. 1903, for Norvik, loaded iron over there for

(Testimony of Captain Olaf Lie.)

Rotterdam, and continued in this trade up to September of that year. Then we went to Hudiksval, loaded lumber for Alexandria, Egypt; from there we went back to Hull, England; from Hull we went to New York, from New York to Havre, from Havre to Cardiff, England; from Cardiff we went to Spain, to a little place which I do not remember any more—it is so little that I do not remember the name of that place, a funny name; from there to Stockholm, from Stockholm to Hudiksval again, and from there to Alexandria; from Alexandria to Azow in the Black Sea; from there we went to Brunsbutle—that is a suburb of Hamburg—and arrived there on the 15th of August, and I left the steamer.

Q. You left the “Symra”?

A. I left the “Symra” there, yes.

Q. What vessel did you next associate yourself with belonging to Mr. Jebsen, after leaving the “Symra”?

A. The “Sildra.”

Q. What was your position on the “Sildra”?

A. Chief officer.

Q. Will you give us your sea experience while on the “Sildra.”

A. I joined her at Sunderland, in England, just when she was completed, new; went from there to Hudiksval, from there to Alexandria, Egypt; from there to Calcutta; from there to Colombo; from Colombo to Melbourne, Melbourne to Sydney; Sydney to Newcastle—this is New South Wales. From there to Manilla; we left Manilla the first of April, 1905, to Moji, Japan; from Moji to Hongkong and

(Testimony of Captain Olaf Lie.)

traded between Hongkong and Moji up to August, 1905. [127—7] From Hongkong the last trip we went to Java to load sugar for Japanese ports; in Java the captain got ill and I took command of the "Sildra" on the 9th of September, 1905; I went from there to Yokohama, from Yokohama to Moji, from Moji to Newcastle, New South Wales, where the captain resumed service the 20th of November, 1905. Then we traded between Newcastle, New South Wales, and Manila for a year, with one trip to Java. On the 23d of November, 1906, we left Newcastle, New South Wales for Honolulu; from Honolulu we went to Ocean Island—that is the South Sea Islands—from Ocean Island back to Honolulu, Honolulu to San Francisco.

Q. When was that, Captain, that you first arrived in San Francisco?

A. Well, I do not remember the date. It is the day before Good Friday, 1907—I don't remember the date.

Q. Was that your first visit to San Francisco?

A. Yes, as an officer, the first time. I was here in a sailing vessel a long time ago.

Q. Proceed.

A. I left the "Sildra" then in San Francisco the 9th day of April.

Q. What year?

A. 1907; and went home for a vacation. During this time the "Selja" was commenced on, building, and I joined her as master when she was completed.

Q. When did you first join the "Selja"?



(Testimony of Captain Olaf Lie.)

A. I joined her three weeks before she was finished.

Q. When was she finished?

A. She was finished the 7th of November, 1907.

Q. Whereabouts was she built?

A. West Harterpool, England.

Q. Were you there representing Mr. Jebsen during her construction, at any time?

A. Yes; three weeks before she was finished. [128—8]

Q. In what capacity?

A. As master, to look after the fitting out of the ship and buy all the necessary stores and outfit which was not included in the contract price of the vessel.

Q. Were you on the "Selja" when she made her trial trip? A. Yes, sir.

Q. Will you please tell us now, Captain, your sea experience on the "Selja"?

A. The trial trip of the "Selja" was made the 8th of November, 1907, at West Harterpool; from there we went to Cardiff, from Cardiff to Punta Arenas.

Mr. DENMAN.—What is the relevancy of this?

Mr. McCLANAHAN.—I am qualifying the captain.

Mr. DENMAN.—For what?

Mr. McCLANAHAN.—As an expert.

Mr. DENMAN.—On what?

Mr. McCLANAHAN.—On what?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—On matters material and relevant to the case.

Mr. DENMAN.—As a builder of a vessel, or what?



(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—I am going to follow this up; if you want to object to it, you can.

Mr. DENMAN.—I am inquiring what the purpose of this long line of testimony is.

Mr. McCLANAHAN.—I say, I am qualifying him as an expert in this case.

Mr. DENMAN.—What kind of an expert?

Mr. McCLANAHAN.—Every point.

Mr. DENMAN.—What kind of an expert, Mr. McClanahan, a navigator?

Mr. McCLANAHAN.—As an expert in this case in any matter which may be material.

Mr. DENMAN.—You might have 40 experts in a case. [129—9]

Mr. McCLANAHAN.—You would not consider there was room for 40 experts of different kinds in this case.

Mr. DENMAN.—As an expert engineer,—on the question of navigation, or what?

Mr. McCLANAHAN.—You ought to know.

Mr. DENMAN.—Will you state what kind of an expert you want to make him.

Mr. McCLANAHAN.—Several kinds of an expert.

Mr. DENMAN.—What are the several kinds; there are several kinds; what are they?

Mr. McCLANAHAN.—I am not going to be catechised by you.

Mr. DENMAN.—I am asking for the purpose of determining what the purpose of your examination is.

Mr. McCLANAHAN.—I have answered your

(Testimony of Captain Olaf Lie.)

question fairly. He is being qualified as an expert in matters material to this case.

Mr. DENMAN.—You have not told us what kind of an expert.

Mr. McCLANAHAN.—That is as far as I will give it to you.

Q. Proceed, Captain.

A. Punta Arenas; that is in the Straits of Magellan; from there we went to Valparaiso; from Valparaiso to Bahia, Blanco; from there to Rotterdam; Rotterdam to Port Talbot, in England, or in Wales, rather; from there we went to Coronel for orders; then to Molliendo, Peru; from Molliendo to San Francisco for orders; from San Francisco to Port Townsend for orders.

Q. Do you remember when you arrived at San Francisco this second time, the first time on the "Selja"?

A. It was between the 13th and the 15th of October, 1908.

Q. Do you remember when you arrived in Portland for orders?

Mr. DENMAN.—Port Townsend, you mean.

Mr. McCLANAHAN.—Q. Yes, Port Townsend.  
[130—10] A. The 19th of October.

Q. The same year?

A. Yes, the same year. From there we went to Panama; from Panama to Portland, Oregon; from Portland, Oregon, to Nanaimo, British Columbia; Nanaimo to Mororan, Japan; from Mororan to Takubar; from Takubar to Chung Wan Tow; from there

(Testimony of Captain Olaf Lie.)

to Hongkong; from Hongkong to Manila; Manila to Hongkong, arriving at Hongkong the 8th of May, 1909. Monday, the 10th of May, at noon, we commenced the service for the Portland Asiatic Steamship Company.

Q. Under a time charter?      A. Yes, sir.

Q. Do you know when that time charter expired, or was to expire?

A. It was to expire the 10th day of May, 1912. From Hongkong we sailed to Moji, Moji to Kobe, Kobe to Yokohama, Yokohama to Portland, Oregon, arriving at Portland, Oregon, Monday, the 14th day of June, 1909; sailed from Portland the 3d of July of the same year for Yokohama; Yokohama to Kobe, Kobe to Hongkong, and sailed again from Hongkong the 14th of August the same year for Moji, to Kobe, Chimitsi, Yokohama, and Yokohama to San Francisco, arriving at San Francisco Sunday afternoon, the 19th of September, 1909. Sailed from San Francisco to Portland, Oregon, arriving at Portland the 26th of September the same year, where my family came on board. From there we sailed again to Yokohama, from Yokohama to Kobe; from there we should have sailed to Hongkong but we met with an accident in the Inland Sea, and returned again—we did not go to Hongkong.

Q. Proceed, Captain.

A. From Yokohama at that time we went to Honolulu, Honolulu to Portland, Oregon, arriving at Portland, about the 10th day of January, 1910; Portland, Oregon, to Yokohama again, Yokohama to Kobe,

(Testimony of Captain Olef Lie.)

Q. What was her indicated horse-power on the trial trip at those revolutions? A. 1950.

Q. What was her maximum speed on the trial trip? A. Eleven knots.

Q. What was her mean draught on leaving Yokohama for San Francisco on this last trip?

A. 18 feet 7½ inches.

Q. What coal did she consume on that voyage up to the collision? A. About 780 tons. [132-13]

Q. What were the revolutions of her engines on this voyage, the maximum revolutions under full speed? A. About 64.

Q. Captain, before the collision when had you taken your last observation?

A. That was taken at 10:40 P. M. the 21st of November.

Mr. DENMAN.—Q. Ten past P. M.? A. Yes.

Mr. McLELLAN.—Q. What was her position at that time? A. 35 miles off Point Reyes.

Q. What was her course?

A. I don't remember what the course was when we took the observation, but I altered the course at 11 o'clock, when I was finished with the observation, to south 71 east magnetic.

Q. How long did you continue on this south 70 east magnetic course? A. To 5 A. M. on the 22d.

Q. When did you first encounter fog on the 22d of November? A. About 1 o'clock A. M. on the 22d.

Q. What was the character of that fog, and what was the weather?

A. The fog up to dawn of the day was falling so-



(Testimony of Captain Olaf Lie.)

casionally; you could see sometimes a little longer and sometimes it shut down and you could only see two or three ship-lengths; occasionally you could see for half a mile.

Q. What was the character of the weather?

A. Fine; you could see the stars; calm practically; long rolling swell.

Q. Were you on watch at the time of first encountering the fog?

A. I was called up when the fog commenced by the third officer, and I came up on the bridge just as the first whistle was blown.

Q. As the first whistle of the "Selja" was blown?

A. Yes.

Q. What whistle?

A. The fog-whistle. [134—14]

Q. How long was the fog-whistle blown after 1 o'clock A. M. November 22d?

A. Continually up to the collision.

Q. At what intervals of time?

A. About a minute.

Q. About a minute apart?

A. Yes, about a minute.

Q. What was the "Selja's" speed at 1 o'clock A. M. November 22d?      A. Full speed.

Q. Did you hear any fog-whistles that night, the night of November 22d?      A. Yes, sir.

Q. What were they?

A. I heard a sailing ship at about 2 o'clock.

Q. What whistles would you hear from a sailing ship?

(Testimony of Captain Olaf Lie.)

A. Three blasts of the fog-horn, about three points on our starboard bow.

Q. What did that mean to you?

A. It meant that she was going the same way as us practically, because the wind was westerly and a light air.

Q. After hearing the fog-horn of the sailing ship—first, how many times after the first did you hear it?

A. Oh, I heard it four or five times since the first, at least.

Q. And what was the position of the sailing vessel as you continued hearing the fog-horn?

A. Passing astern on our starboard side.

Q. After hearing the fog-horn of the sailing vessel, did you hear any other whistles that night?

A. Yes, sir.

Q. What were they?      A. A steamer's whistle.

Q. How long after hearing the fog-horn?

A. Oh, about 40 minutes; 40 or 45 minutes, I should say.

Q. Where was that whistle heard, the first whistle?

A. I don't know exactly.

Q. What did you do when you heard the steamer's first whistle?

A. I stopped the engines. [135—15]

Q. Did you hear any other whistles from the steamer?      A. Yes, sir.

Q. Where was the next whistle that you heard?

A. About five points on our port bow.

Q. What did you do after you heard the second whistle?      A. I gave full speed ahead.

Q. Started your engines again?      A. Yes, sir.



(Testimony of Captain Olaf Lie.)

Q. What was the condition of the weather, Captain, in the forenoon of November 22d?

A. Very dense fog.

Q. At what distance were objects visible during the forenoon?

A. Oh, I should say about two or three hundred feet, perhaps.

Q. The fog was more dense in the forenoon of the 22d than in the afternoon? A. Yes, sir.

Mr. DENMAN.—Do not lead the witness, Mr. McClanahan. That is purely a leading question.

Mr. McCLANAHAN.—Q. How long did you continue your full speed after passing that vessel at night? A. Up to 5:30 A. M.

Q. Did you take any soundings during the forenoon of November 22?

A. Yes, sir. We took soundings every half hour from 5:30 on our easterly courses, but only twice on the westerly courses.

Q. How long did you continue taking soundings on November 22?

A. Well, we took soundings right up to the collision, but from 1 o'clock P. M. we took soundings every five minutes.

Q. Up to when?

A. Up to the time of the collision.

Q. When did you change your course from south 70 east magnetic? A. At 8 o'clock A. M.

Q. What course did you then steer?

A. West magnetic.

Q. How long did you steer that course?

(Testimony of Captain Olaf Lie.)

A. To 9:30 A. M.

Q. Did you change your course at 9:30?

A. Yes, sir. [136—16]

Q. What was it changed to then?

A. East by north.

Q. How long did you maintain that course?

A. Until 11 o'clock.

Q. Did you change it then? A. Yes, sir.

Q. What to? A. West again.

Q. How long did you maintain that course?

A. To 1 o'clock P. M.

Q. You changed it at 1 o'clock? A. Yes, sir.

Q. What to? A. South 60 east magnetic.

Q. Up to this time what was the speed of the "Selja"?

A. From 8 o'clock to 1 P. M. it was dead slow.

Q. From 8 o'clock to 1 P. M. it was dead slow?

A. Yes, sir.

Q. What was the speed changed to at that time?

A. Half speed.

Q. How long after 1 o'clock was your half speed maintained? A. Up to 3:05 P. M.

Q. How long was your south 60 east magnetic course maintained? A. Two-fifty P. M.

Q. After changing the course of the "Selja" at 1 o'clock, did you hear any whistles?

A. At 2:30 I heard a strong whistle.

Q. You heard a whistle? A. Yes, sir.

Q. What was that whistle?

A. Point Reyes fog whistle.

Q. How did it sound when you first heard it?

(Testimony of Captain Olaf Lie.)

A. Loud and clear.

Q. You are referring now to what whistle?

A. To Point Reyes whistle.

Q. Was that the first whistle that sounded loud and clear?     A. Yes, sir.

Q. How do you account for the first whistle of Point Reyes sounding loud and clear?

A. Well, I only know I can say I did not [137—17] expect to hear it so much because the sailing directions says that it can't—it says it can hardly be heard to the northward of it; it seems that fog whistle is placed that way, that it is obscured, the sound is obscured to the northward.

Q. What was the bearing of this first whistle that you heard from Point Reyes?

A. Between 3 and 4 points on the port bow.

Q. What was the compass bearing?

A. The compass bearing on the second whistle was east by north.

Q. How do you know that?

A. I took the bearing of it by the compass.

Q. How long after the first whistle was the second whistle sounded?     A. Thirty-five seconds.

Q. How long after hearing the first whistle from the Point Reyes siren did you continue to hear it?

A. Up to the collision.

Q. And at what intervals?

A. Thirty-five seconds.

Q. How do you know it was 35 seconds?

A. Timed it.

Q. Who timed it?

(Testimony of Captain Olaf Lie.)

A. The third officer and myself.

Q. Timed it with your watches?      A. Yes, sir.

Q. At the time of hearing the first whistle from Point Reyes did you know the distance?

A. No, sir, I did not.

Q. Have you since ascertained the distance?

A. Yes, sir.

Q. What was it?      A. Two and a half miles.

Q. When you say "miles," do you mean nautical miles?      A. Nautical miles.

Q. Do you know the distance travelled by the "Selja" on her south 60 east course from 2:30 to 2:50 P. M.?      A. Yes, sir.

Q. What was it?

A. Two miles—two nautical miles.

Q. Whenever you use the expression "Miles" you mean nautical miles, do you?

A. Yes; we never use anything else. [138—18]

Q. How many feet in a nautical mile?

A. Six thousand and eighty.

Q. At 2:50 P. M. in what direction was the Point Reyes siren then bearing from the "Selja"?

A. At 2:50?

Q. Yes, at 2:50?

A. It was abeam, north 30 east.

Q. When you heard it abeam at 2:50 did you do anything?      A. Yes, sir.

Q. What did you do?

A. I went into the chartroom just soon after that; the chief officer came with the data of the surroundings and also with his log of the distance run, and

(Testimony of Captain Olaf Lie.)

I went into the chartroom and put it out.

Q. Put it out? A. Put it down on the chart.

Q. By putting it down you mean you plotted it.

A. Plotted it on the chart, yes.

Q. You say the distance was logged between 2:30 and 2:50? A. Yes, sir.

Q. By whom? A. The first officer.

Q. How soon after the whistle was heard abeam did you plot the data which the first officer had given to you? A. Oh, I should say about 5 minutes.

Q. What was the distance as you plotted it at that time from the siren to the "Selja" at 2:50?

A. On the chart I had I got it a mile and a half; it was a very small scale.

Q. Bearing north 30 degrees east, you say?

A. Yes, abeam on the south 60 east.

Q. On the south 60 east course.

A. Yes, that was abeam.

Q. How far did the "Selja" travel from 2:50 to 3 P. M.? A. A mile—a nautical mile.

Q. What direction was the Point Reyes siren bearing at 3 P. M.? A. North, magnetic. [139—19]

Q. How do you know that?

A. By the chief officer taking the bearings; I told the chief officer to take the bearings on the compass.

Q. On the compass? A. Yes, on the compass.

Q. How far was the "Selja" from the whistle at 3 P. M.?

A. She was one and seven-eighths of a nautical mile.

Q. Did you know that at that time? A. No, sir.



(Testimony of Captain Olaf Lie.)

Q. When did you know that?

A. I knew that after I came ashore.

Q. How long after was it?     A. Oh, the next day.

Q. Have you at all at any time since you came ashore, Captain, verified the bearings and distances the "Selja" was from the Point Reyes siren as shown by you when you took those bearings and distances on the "Selja"?     A. Yes, sir.

Q. When was that, when did you verify them?

A. That was done a few days after the collision.

Q. A few days after the collision?     A. Yes, sir.

Q. What did you find the actual distance the "Selja" was from the Point Reyes siren at 2:30?

A. Two miles and a half.

Q. And what about her bearing—the same bearing?     A. The same bearing, of course.

Q. What did you find her actual distance when she was abeam at 2:50?

A. One and five-eighths of a mile.

Q. And at 3 o'clock you say that the distance was one and seven-eighths of a mile?     A. Yes, sir.

Q. What was the course of the "Selja" at 2:50?

A. South 60 degrees east, but it was changed at 2:50 to south 65 east. [140—20]

Q. How long did you keep this last course, south 65 east magnetic?     A. Up to the collision.

Q. Captain, when this bearing, this compass bearing, at 3 o'clock was given to you by your first officer, what did you do?

A. I was intending to go into the chartroom and lay it off on the chart, but just on the moment of



(Testimony of Captain Olaf Lie.)

going I heard a whistle about right ahead.

Q. And when was it you say that you heard that whistle right ahead?

A. Just after that bearing was taken.

Q. And that bearing was taken at 3 o'clock?

A. Yes, sir.

Q. So it was a very chort time after 3 o'clock that you heard the first whistle? A. Yes, sir.

Q. That was the "Beaver," was it not—it turned out to be the "Beaver"? A. Yes, sir.

Q. Did you know at the time of hearing this first whistle the distance separating you from the Point Reyes siren?

A. I did not know exactly at that time; but I knew I was over a mile and a half off.

Q. Was the siren blowing at the time you heard the first whistle? A. Yes, sir.

Q. Did they blow together?

A. No, they did not blow together, because the Point Reyes whistle blew every 35 seconds.

Q. Well, at the time of hearing the first whistle from the "Beaver" was the Point Reyes whistle blowing then? I mean at the very moment that you heard the first whistle from the "Beaver," at that moment was the siren blowing? A. No, sir.

Q. Was there any difference between the siren whistle as you then heard it and the sound of the "Beaver's" whistle—the first whistle?

A. Yes, sir. [141—21]

Q. What was the difference?

A. The difference is that the Point Reyes whistle

(Testimony of Captain Olaf Lie.)

was much louder than the "Beaver's" whistle.

Q. How did the "Beaver's" whistle sound?

A. It sounded faint but distinct.

Q. Did it sound near or far?

A. It sounded far off.

Q. What was the character of the fog at that time?

A. The fog—you could see about two ship lengths, but the sun was shining through it.

Q. I am confining my question now to the first whistle heard by you from the "Beaver"; how was the sea at that time?     A. Calm.

Q. Was there a swell?

A. Yes, long, rolling, westerly swell.

Q. Captain, were there any local noises on the ship at that time?     A. No, sir.

Q. Did the vibrations of your engines going at half speed interfere with your ability to hear this whistle ahead of you?     A. Not the slightest.

Q. Did you know when you heard the first whistle that it was the whistle of a steamer?

A. No, sir, I did not know at that time.

Q. What did you think that it might have been if it was not a steamer?

A. Well, at that time, it just came into my mind that it might be one of the fog-horns off Golden Gate.

Q. What fog-horn could it possibly have been?

A. Well, the only thing was Point Bonita.

Q. How far were you from Point Bonita at that time?

A. The exact distance I did not know, but I knew I was over twenty miles.

(Testimony of Captain Olaf Lie.)

Q. What made this thought pass through your mind, that it might [142—22] be a fog-whistle from the land?

A. Because it sounded so far away.

Q. What did you do after you heard the first whistle?

A. I commenced to time it—but not the second whistle. I commenced to time it about the third whistle; I should say I heard the third whistle before I commenced to time it.

Q. Did you time it alone?

A. No, sir; the third officer timed it.

Q. What was the result of this timing?

A. I got 56 or 57 seconds, the interval, but it blew pretty regular five seconds; but the third officer got a second or two more.

Q. Why did you time these whistles?

A. As I have stated before it just came into my mind that it was one of the fog-horns of Golden Gate.

Q. Do you time steamers' whistles when you hear them in a fog and when you know that they are steamers' whistles?

A. No, sir; we do not. It is not necessary to do that.

Q. Well, ask you if you do it.

A. We do not do it.

Q. You do not? A. No, sir.

Q. When you had finished timing this whistle ahead of you, did you come to any conclusion as to what it was? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. What was that conclusion?

A. I came to the conclusion that it was an approaching steamer.

Q. What did you do then? I withdraw that question. What speed were your engines making at that time, when you came to the conclusion that it was an approaching steamer? A. Slow.

Q. What was the speed of your engines from 3 to 3:05? A. Half speed.

Q. When did you put them slow? A. 3:05.

Q. Why did you change the speed of your engines from half speed to slow? [143—23]

A. Because I considered that six knots was not moderate enough under the circumstances.

Q. What did you consider with reference to slow?

A. Well, I would say that is a moderate speed in this fog.

Q. After the first whistle was heard was there a change in the bearing of those whistles?

A. A little bit, not much; just a little bit on the port bow.

Q. Why didn't you stop your engines when you heard the first whistle of the "Beaver?"

A. Well, because the sound was located as good as could be located in a fog and showed absolutely no danger of a collision.

Q. Are you familiar with the rule which requires a steamer to stop in a fog?

Mr. DENMAN.—Do not state the rule.

Mr. McCLANAHAN.—Q. Answer the question.

Mr. DENMAN.—I object to your putting the

(Testimony of Captain Olaf Lie.)

question in a suggestive way.

A. Yes, sir.

Mr. McCLANAHAN.—Q. Are you familiar with the rule which requires a vessel to stop in a fog?

A. Yes.

Mr. DENMAN.—I object to that as continuing in the same direction.

Mr. McCLANAHAN.—Q. Has that rule been adopted by the Norwegian Government?

Mr. DENMAN.—I object to that as a leading question.

A. Yes, sir.

Mr. McCLANAHAN.—Q. Do you know when it was adopted?

A. No, I do not know exactly, but I think it was adopted in 1897. [144—24]

Q. Is that rule in Norwegian in the same words as in the English language?

Mr. DENMAN.—I object to that; the rules show on their face what they are; it is a matter of law.

Mr. McCLANAHAN.—Q. Do you know what it is in the English language, Captain? A. Yes, sir—

Mr. DENMAN.—Wait a minute.

Mr. McCLANAHAN.—Do not answer Captain, until Mr. Denman has got on record his objection.

Mr. DENMAN.—I object to that, first because the rules show on their face, they are the best evidence of what their contents are; second, as calling for a conclusion of the witness and for his memory.

Mr. HENGSTLER.—I object to it on the ground that it does not appear that the captain knows what



(Testimony of Captain Olaf Lie.)

the rule is in the English language.

Mr. McCLANAHAN.—Q. Now Captain, pay no attention to the objections and answer the question. Read the question.

(The question read by the reporter.)

A. Yes. I think it has one word more in our rule—I mean the translation of the rule.

Mr. DENMAN.—Have you a copy of the rule here?

Mr. McCLANAHAN.—I will get to that, Mr. Denman, if you will wait a minute. Do not get excited over it.

Mr. DENMAN.—I am not excited at all, but your method of examination is entirely improper; you are taking advantage of the absence of the court to rule on questions to put questions that I consider are not proper, and I intend to break in and make [145—25] such objections as I can to protect my interests.

Mr. McCLANAHAN.—Q. What is this word which you say is in the Norwegian rule that does not appear in the English rule?

Mr. DENMAN.—The same objection.

A. You want it in Norwegian?

Mr. McCLANAHAN.—Q. What is the word, Captain.

Mr. DENMAN.—I make the same objection.

A. Our rule has the word “sikkerhed.”

Mr. McCLANAHAN.—Q. What does that word mean?

A. That means that—

Mr. DENMAN.—The same objection.



(Testimony of Captain Olaf Lie.)

A. Surely or exactly.

Mr. McCLANAHAN.—Q. Now, where does that word appear in the Norwegian rule?

Mr. DENMAN.—I object to that on the ground, first, that the rule will show on its face; the rule is not in evidence; and secondly, it calls for the conclusion of the witness, and a matter of law.

A. In the second part of the rule.

Mr. HENGSTLER.—I make the further objection that it is not the best evidence.

Mr. McCLANAHAN.—Q. Give the sentence that it is in.

Mr. DENMAN.—I object to the question because it calls for a part of the rule and not the whole.

A. That is to say, if the position is not surely ascertained.

Mr. McCLANAHAN.—Q. Do you know whether that word “surely” is in the English rule, or not?

A. It is not in the English rule, no, sir. [146—26]

Q. It is not in the English rule? A. No, sir.

Q. With that difference then the two rules are alike?

Mr. DENMAN.—I object to the question as calling for the conclusion of the witness— A. Alike.

Mr. DENMAN.—Wait until I get my objection in, Captain. I object to it as calling for the conclusion of the witness, not being the best evidence as to the rules, and as being hearsay.

A. Alike.

Mr. McCLANAHAN.—Q. Captain, when did you

(Testimony of Captain Olaf Lie.)

first know of this rule requiring the stopping of a vessel's engines in a fog?

A. I learned that at the same time as I learned all the rules of the road, passing as mate.

Q. What was your course of study and examination when you passed as mate? What did it include?

A. That included all kinds of navigation, and also the rules of the road.

Q. Anything else?      A. And machinery.

Mr. PAGE.—Did the witness say when he passed as mate?

Mr. McCLANAHAN.—Yes.

Q. What was the date you passed as mate?

A. The 23d of April, 1897—no, I am wrong; I got it mixed. It is 1898. I commenced in 1897.

Q. That is, you commenced to study in 1897.

A. Yes. The date is the 23d of April, 1898.

Q. Did you have anything to do with this rule when you were an instructor in the nautical school?

A. No, I did not have anything to do with it.

Q. I meant to have asked you another question there. You say that [147—27] your course in the nautical school, when taking the examination for first officer, included machinery. What did you mean by that.

A. That is to know an engine of a steamer, find out her horse-power, the speed of a vessel, the normal pitch of the wheel, and so on.

Q. That you took up when you were studying for first officer?      A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. Is this stopping rule numbered the same in the Norwegian rules as it is in the English?

A. Yes, sir.

Q. What is the number? A. Paragraph 16.

Q. Did you have a copy of the article 16 on the "Selja" at the time of the collision?

A. In Norwegian; just the Norwegian copy.

Q. A Norwegian copy? A. Yes, sir.

Q. What became of that copy, Captain?

A. It went down with the ship.

Q. Did you save any papers or data from the collision? A. Nothing at all, no.

Q. You lost everything, did you? A. Yes, sir.

Q. Have you seen a copy, a Norwegian copy of article 16 since you came ashore? A. No, sir.

Q. Is there a Norwegian copy of article 16 in the city, to your knowledge?

A. The Consul might have one.

Q. He might have one?

A. He might have one.

Q. But you have not seen one? A. No, sir.

Q. Captain, during your continuance as master of the "Selja" did you in the routine of your duties ever have to consider article 16?

A. Yes, sir. [148—28]

Q. Will you tell in what respect?

A. It was my habit when I went to rest and whenever I expected fog, I always in my night orders—I had a night order book—wrote, and every officer had to sign it before he went on watch, and in that night order book I just put in that if they heard a

(Testimony of Captain Olaf Lie.)

whistle forward they should stop the engines and call me.

Q. You say you had a night order book?

A. Yes, sir.

Q. Is that something that is always kept by a master?

A. No, not always, but I had a habit of keeping it.

Q. What was the purpose of this night order book?

A. Because they could not go back on the orders—the officer could not say they have not got the orders.

Q. What did it contain besides this reference to article 16, as a rule?

A. The course to be steered, and the rules which always is to be kept on board of a vessel, to be on the bridge, and so on, and keep a good lookout.

Q. Captain, why did you stop your engines on the night preceding the collision when you heard that first whistle of the steamer?

A. Because I did not know, I could not locate it—I did not locate it, I did not know where she was.

Q. Why did you stop your engines at 3:10 P. M., November 22d?

A. I only call that good seamanship to do so. I had then not only located the ship carefully, but I had also ascertained her course as near as it could be, and I stopped the engines just because it was good seamanship to do so.

Q. Did you stop the engines at 3:10 because of

(Testimony of Captain Olaf Lie.)

article 16? A. No, sir.

Q. With reference to the succeeding whistles after the first whistle heard from the "Beaver," did they vary your judgment as to her position? [149—29]

A. No, sir, nothing.

Q. Did those succeeding whistles have any influence on your judgment at all?

A. No, sir, nothing, except what I said, it was just a little on the port bow, and that didn't weaken it at all.

Q. Did the second whistle of the "Beaver" vary your judgment as to the bearing and distance?

A. No, sir.

Q. Captain, if you had stopped your vessel on hearing the first whistle could you have been assisted thereby in any degree in more accurately judging the distance and bearing of the "Beaver"?

A. No, sir.

Q. Why not?

A. Because I heard it as good as it could be located in a fog at that time, and there was no local noises on my vessel.

Q. Were there any local noises off your vessel?

A. No, sir, nothing; there was nothing that could help me by stopping the engine at that time to locate that whistle.

Q. The sea was in what condition at that time?

A. It was calm with a westerly swell; as a matter of fact, I could hear the sea gulls flap over the bow when we came along; there was a lot of sea gulls hanging around the ship and I could hear them when



(Testimony of Captain Olaf Lie.)

they lifted from the water, it was so quiet.

Q. When the sea gulls arose from the water?

A. Yes.

Q. You could hear what?

A. You could hear the flaps of the wings.

Q. How long was it after 3:10 before you sighted the "Beaver"?     A. Five minutes.

Q. How were the engines of the "Selja" going from 3:10 to 3:15?     A. Stopped.

Q. When did you stop them?     A. 3:10.

Q. What was the speed of the "Selja" at 3:10, when you stopped [150—30] the engine?

A. Three knots.

Q. How long had you been going at three knots?

A. They were slowed down at 3:05 to slow speed, which is three knots, and kept five minutes.

Q. So that they had been going at three knots for five minutes?

Mr. DENMAN.—I object to that as leading and suggestive.

Mr. McCLANAHAN.—He said they were slowed down to slow speed at 3:05, which is three knots, and were kept at that for five minutes. He said he stopped them at 3:10.

Mr. DENMAN.—The engines were going at three knots; very well.

A. Yes, sir.

Mr. McCLANAHAN.—Q. What was the distance separating the two vessels when they first came in sight at 3:15?     A. About 900 feet.

Q. What was the "Selja's" course at that time?



(Testimony of Captain Olaf Lie.)

A. Her course was about three-quarters of a point or a point to the southward or south of 65 east.

Q. How do you account for that change in her course?

A. Well, she commenced to swing the last minute or so before 3:15; she commenced to swing to starboard.

Q. What was the cause of that swinging?

A. Well, I suppose because she commenced to lose her headway.

Q. What was the bearing of the "Beaver" when you first saw her?

A. About two points on our port bow.

Q. Did you know her course at that time?

A. No, sir.

Q. When did you learn her course?

A. A few seconds afterwards.

Q. When the "Beaver" was first sighted at 3:15, was the "Selja" making any headway through the water at that time? [151—31]

A. No, sir. I just think she was practically at rest; in my opinion she was practically at rest at that time.

Q. Had you been paying any attention to the question of the "Selja's" headway? A. Yes, sir.

Q. What was it?

A. Occasionally stepping a few feet towards the side to look over; it was just a few feet from the telegraph to look over the side at the water. I told the third officer to hold on till I told him to blow three whistles. The whistle I heard about 3:14, I did not

(Testimony of Captain Olaf Lie.)

look exactly at the time—

Q. What whistle was that?

A. The whistle of the “Beaver”—I thought to tell him to blow two whistles—I didn’t tell him—in answer to his next whistle—I thought to tell the third officer to blow two whistles, in answer to the “Beaver’s” next whistle.

Q. What time would that whistle have blown?

A. About 3:15 it should have blown.

Q. Did you tell your third officer to blow two whistles?     A. No, sir.

Q. Why not?

A. Because the “Beaver” loomed in sight, and I saw her blow three whistles.

Q. You saw the “Beaver” blow three whistles?

A. I saw the “Beaver” blow three whistles.

Q. What do you mean by saying you saw the “Beaver” blow three whistles?

A. I saw the steam come out of his whistle and I heard it, of course, at the same time.

Q. How soon after she had loomed in sight did you see the steam escaping from his whistle?

A. About the same time; she loomed in sight and the three whistles was almost the same time. [152—32]

Q. Three whistles at almost at the same time.

A. Yes.

Q. What did you do when you saw and heard the three whistles from the “Beaver”?

A. I told the third officer to blow three whistles

(Testimony of Captain Olaf Lie.)

and I rang full speed astern on my engine at the same time.

Q. When you discovered the course that the "Beaver" was going, did you notice whether she was coming fast or slow?

A. She was coming fast.

Q. How do you know that?

A. I saw the way she cut the water.

Q. Captain, what was the apparent angle of approach of the two vessels, measured from their center lines—what was the apparent angle of approach?

A. Well, I could not say exactly, but—it is very hard to say, because I did not look exactly at the lines, but I should say the angle would have been 70 or 89 degrees—that is hard to say.

Q. What would be your best judgment—70 or 80 degrees? A. Yes.

Mr. DENMAN.—When you first saw it?

A. No, sir, when she struck.

Mr. McCLANAHAN.—I am talking about the angle of approach as she came toward you.

A. That angle increased; that angle was increasing steadily as my vessel swung, and I saw the "Beaver's" sides. I was watching the "Beaver" carefully then and I thought probably she would pass wide of me; her starboard side was broadening all the time as I was watching her.

Q. So that the angle of approach you have approximated as 70 or 80 degrees was the angle of impact? A. Yes, the time she struck.

(Testimony of Captain Olaf Lie.)

Q. About the time she struck? A. Yes, sir.

Q. Where was the bridge located with reference to where she struck, forward or aft?

A. Aft. [153—33]

Q. It was aft. A. Yes.

Q. You say this angle of impact then had broadened from the angle when she first was seen approaching you? A. Yes, greatly.

Q. Did the "Beaver's" course change as she approached you?

A. It did not seem to change to me because the side was broadening and we were moving astern at that time.

Q. Where did the "Beaver" strike the "Selja"?

A. She struck, I should say, about 6 or 8 feet abaft of the bulkhead between 1 and 2; but she struck aft of the backstay of the rigging.

Mr. DENMAN.—Q. Of the foremast?

A. Of the foremast, yes.

Mr. McCLANAHAN.—Q. Between No. 1 and No. 2 what? A. No. 1 and 2 holds.

Q. How far is that from the stem approximately?

A. Well, I could not say exactly; it is hard to say; but it must be between 70 and 90 feet, I should say. I really don't remember how long that fore-castle was—about 90 feet perhaps.

Q. At the time the "Beaver" struck the "Selja" was she swinging to port or to starboard—had the "Beaver" swung to port or to starboard?

A. She did not seem to swing at all to me.

Q. What would have been the angle of impact,

(Testimony of Captain Olaf Lie.)

Captain, if both vessels were on their original courses at the time of impact, measured from the center lines of each vessel?

A. Well, take the course that Captain Kidsten said; he said he was steering north 86 west magnetic, and we were steering south 65 east, which is an angle of 21 degrees.

Q. You say that before sighting the "Beaver" there was some change in your heading. I have forgotten just what you said. What was it?

A. Well, she swung—her bow swung a little to starboard; it [154—34] commenced to swing to starboard, and she had swung about a point.

Q. Her bow had swung to starboard?

A. Yes, her bow had swung to starboard about a point.

Q. At the moment of impact had the "Selja" swung either way?

A. Oh, yes, her stern swung to port, you see, at the same time as she was going astern; she swung, following the propeller.

Q. And her bow would swing to starboard?

A. Yes, sir.

Q. What was the cause of that swinging?

A. The momentum of the propeller; the propeller there.

Q. The propeller did it. A. Yes.

Q. In what way was the propeller going?

A. Going full speed astern.

Q. How does the "Selja" swing under those circumstances? A. Her stern swings to port.



(Testimony of Captain Olaf Lie.)

Q. And her bow would swing to starboard?

A. Yes, sir.

Q. Captain, do you know how long a time elapsed from the moment of impact until the "Beaver" had backed clear from the hole in the "Selja"?

A. Well, I could not say that. It was a matter of a few seconds, I should say. I did not time that at all, of course not. I had something else to look after so I did not time that.

Q. At the moment of impact what had been the effect on the "Selja" of reversing her engines full speed astern at 3:15?

A. She had gathered sternway, but she swung to starboard—her bow was swinging to starboard.

Q. Did the "Selja" continue to move astern after the impact? A. Yes, she did.

Q. How do you know that?

A. Well, the only way I know it [155—35] is when the boats were lowered from their regular places the bow of the boats was towards the bow of the "Selja," but afterwards they swung around and pointed their bow towards the stern of the "Selja."

Q. Let us get that clear. As I understand your answer, it is, that when the boats were first lowered into the water their bows pointed the same way that the bow of the "Selja" did.

A. Yes, sir.

Q. But subsequently and after the impact their bows were pointed towards the stern of the "Selja"?

A. Yes, sir.



(Testimony of Captain Olaf Lie.)

Q. How do you account for that change in the boats?

A. The "Selja" was going astern; that is the only way, and nothing else.

Q. Could it be accounted for in any other way?

A. No, sir.

Q. How long, Captain, was it between the sighting of the "Beaver" and the time of the impact?

A. About a minute, I should say—about a minute.

Q. How long did the "Selja" remain afloat?

A. 15 minutes after the impact.

Q. Captain, do you know what maneuvers were made by the "Beaver" after she backed out from the hole in the "Selja's" side?

A. I don't know the maneuvers of the engine, but I know the way she swung.

Q. Tell us how she swung then.

A. When she backed out she swung pretty near parallel with us, to the "Selja," stern to stern.

Q. And bow to bow?     A. And bow to bow.

Q. What distance separated you at that time, when she had come to rest in that position? [156—36]

A. I should say about a ship's length and a little more.

Q. Would it have been possible for the "Beaver" to have made that swing by which she was placed eventually bow to bow and stern to stern with the "Selja" if at the moment of impact she was swinging

(Testimony of Captain Olaf Lie.)

rapidly to starboard?     A. I do not think so.

Q. Captain, at the time of the collision were you hearing the Point Reyes siren or had you lost that sound?

A. I heard it right up to the collision.

Q. Do you know the bearing and distance of the Point Reyes siren from the "Selja" at that time, 3:15?

A. Yes, I know that. I did not know it then exactly but I have plotted that out after I came ashore.

Mr. DENMAN.—I object to that on the ground it calls for a guess of the witness and not actual knowledge at the time.

Mr. McCLANAHAN.—Q. What was the bearing?

A. The bearing was south southeast from Point Reyes, or north northwest from the "Selja" two and a half miles.

Q. What was the bearing and distance at the time of the collision?

A. That is the time of the collision.

Mr. PAGE.—The time of the collision was 3:15.

Mr. McCLANAHAN.—That is what he said.

Q. I will ask you the further question, what was the bearing and distance at 3:15?

A. Well, it might be 100 feet shorter; that is all. It could not be miles. You see she backed that 100 feet nearer the point.

Q. So you would say the distance and bearing was practically the same?

A. It could not alter the bearing in one minute going [157—37] astern; she was going northward.

(Testimony of Captain Olaf Lie.)

Q. Answer the question: Was it practically the same? A. Yes, sir.

Mr. HENGLTER.—100 feet nearer to Point Reyes.

Mr. McCLANAHAN.—He said it might be.

The WITNESS.—About that; I would not say for certain.

Mr. McCLANAHAN.—Q. Captain, can you find the speed of a vessel?

A. Yes, I can find the speed.

Q. What data have you got to have?

A. Well, I can find it with the log if I have not anything else.

Q. Suppose you have not got the log; suppose you have not the distance travelled between any two points, can you find the speed?

A. Well, I can find the speed if you give me the revolutions of the engines and the pitch of the propeller and her ordinary slip.

Q. Can you find the slip of a propeller?

A. Yes, it can be found also.

Q. What is the data you must have in order to do that?

A. The revolutions of the engine, the pitch of the propeller and the distance logged in a certain time.

Q. Where did you learn how to do this, find the speed of a vessel and find her slip?

A. At school,—nautical school.

Q. Did you learn that during your examination for first officer's papers? A. Yes, sir.

Q. What was your course in the Government Nau-

(Testimony of Captain Olaf Lie.)

tical School in Norway when you took your examination for master—what courses did you take?

A. It is seven principal courses, which first contains navigation, and that is in details you might as well say; then they have machinery, the same as in passing for mate, but more; then we have business and maritime law; then we have [158—38] spelling and reading of the Norwegian language, and also the English, and then we have meteorology.

Q. What does that include,—meteorology?

A. That includes weather conditions, find out and know the weather, reading the barometer and thermometer, and it also includes routes to take going across the ocean; and then we have electricity.

Q. That is all. A. That is seven, yes.

Q. Captain, did you attend the hearing in this matter before the United States Inspectors at this port?

A. Yes, sir.

Q. When was that?

A. The 25th of November, 1910.

Q. You were present at that, were you?

A. I was present the first day.

Q. The 25th of November?

A. Yes, the 25th of November.

Q. Did you hear Captain Kidsten testify at that time? A. Yes, sir.

Q. Was he under oath? A. Yes, sir.

Q. Did he testify with reference to when the "Beaver" passed Meiggs Wharf? A. Yes, sir.

Q. What was the hour? A. 1:11 P. M.

Q. Did he testify when she passed the North

(Testimony of Captain Olaf Lie.)

Heads? A. Yes, sir.

Q. What was the hour? A. 1:37 P. M.

Mr. DENMAN.—I object to this.

Mr. McCLANAHAN.—Q. Did he testify as to when the “Beaver” passed Red Buoy No. 2?

A. Yes, sir.

Mr. DENMAN.—What is the purpose of this testimony?

Mr. McCLANAHAN.—I am laying the foundation for some hypothetical questions.

Mr. DENMAN.—I object to the introduction of the evidence on [159—39] the ground that the evidence as to what Captain Kidsten testified to is immaterial, irrelevant and incompetent, is hearsay, and it is understood that the same objection is made to each one of these questions.

Mr. McCLANAHAN.—Yes.

Q. Did he testify as to the course of the “Beaver” after she left Red Buoy No. 2.

Mr. HENGSTLER.—He has not put in the time.

Mr. McCLANAHAN.—Q. When did the “Beaver,” according to the testimony of Captain Kidsten pass Red Buoy No. 2? A. At 1:45 P. M.

Q. Did Captain Kidsten testify with reference to the course of the “Beaver” after leaving Red Buoy No. 2? A. Yes, sir.

Q. What was the course he testified to?

A. He said he steered south 83 west on the bridge compass up to Ducksberry Reef, and that course he said was magnetic south 86.

Q. South or north?



(Testimony of Captain Olaf Lie.)

A. South 86; this is all to Ducksberry Reef; and from Ducksberry Reef he said he steered north 86 west magnetic.

Q. Did he testify with reference to the draft of the "Beaver" on leaving San Francisco on November 22d? A. Yes, sir.

Q. What did he give the draught?

A. 14—3 forward; 18—6 aft.

Q. 14—3 forward? A. Yes; 18—6 aft.

Q. Did he testify as to the revolutions of the engines of the "Beaver" on her course after leaving Red Buoy No. 2?

A. No. He said that full speed was from 83 to 85 revolutions; that is all he said.

Q. Did he testify with reference to the maneuvers of the "Beaver" just before and after sighting the "Selja"? [160—40]

A. Yes—that was in his statement written to one of the inspectors. He said—

Q. That was his statement written to one of the inspectors?

A. Yes, under oath, in his statement written to them regarding the accident.

Mr. DENMAN.—Was this statement in writing, under oath? A. Yes, sir.

Mr. DENMAN.—I object to any evidence as to the statement, the writing itself being the best evidence.

Mr. McCLANAHAN.—We ask you to produce the writing.

Mr. DENMAN.—Ask us to produce the writing? We have not got the custody of the writing.



(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—You decline to produce the writing?

Mr. DENMAN.—I have never had the writing. It is in the possession of the United States Inspectors, and I can't produce it.

Mr. McCLANAHAN.—Then I ask you to produce a copy of it.

Mr. DENMAN.—There is no evidence we have a copy.

Mr. McCLANAHAN.—Have you a copy?

Mr. DENMAN.—Find out.

Mr. McCLANAHAN.—I am asking you.

Mr. DENMAN.—The original of this letter is in the possession of the United States Inspectors in the City and County of San Francisco and within reach of subpoena of the libellant.

Mr. McCLANAHAN.—Q. What did Captain Kidsten say as to his maneuvers in this sworn report?

Mr. DENMAN.—I object on the ground, first, that it is hearsay; second, that the writing is the best evidence; third as immaterial, irrelevant and incompetent. [161—41]

A. The captain said that he had stepped off the bridge—

Mr. DENMAN.—I further protest against the manifest impropriety of getting in evidence which counsel must know is not proper at this time.

A. (Contg.) —for a minute, and when he returned to the bridge the second officer reported the whistle one point on his starboard bow. He then ordered his wheel to starboard, thinking that he was overtaking

(Testimony of Captain Olaf Lie.)

a vessel or a vessel bound down North Channel; his automatic whistle blew just then and as it stopped he heard another whistle on the same bearing, although the "Beaver" had swung half a point to port; then he put his engine full speed astern and his wheel hard-a-port, as he made up his mind it was a steamer crossing his bow, although he has not seen her.

Mr. DENMAN.—Q. Did he say "although he has not seen her"?

A. Well, he said he has not seen the vessel.

Q. Did he say in the letter "although he has not seen her"?

A. Well, I don't know exactly the expression, but he said he has not seen the vessel.

Q. You do not pretend to be giving the exact words of the captain, do you?

A. No. I am just telling the meaning. I don't know, there may be other words in it. That is his meaning.

Mr. DENMAN.—I move to strike out all the testimony regarding the contents of the captain's letter on the grounds expressed in the objection to giving the testimony.

Mr. McCLANAHAN.—Q. Captain, do you know the distance between Red Buoy No. 2 and the North Heads? A. Yes, sir.

Q. What is it? A. Two nautical miles.

Q. Two nautical miles.

A. That is to say, that is not the [162—42] exact distance from North Heads to Red Buoy No. 2,

(Testimony of Captain Olaf Lie.)

but when a vessel passes North Heads on the course out to Golden Gate.

Q. Captain, if the "Beaver" on her course out through the Golden Gate passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines and proceeds under the same conditions until 3:10 P. M., how far would she have traveled and at what rate of speed from 1:37 to 3:10 P. M.?

A. Her speed was 15 knots, and the distance run from 1:37 to 3:10 P. M. would be  $23\frac{1}{4}$  knots.

Q. If the "Beaver" traveled  $23\frac{1}{4}$  knots from 1:37 P. M. to 3:10 P. M., and her speed was 15 knots during that time, and assuming that the revolutions of her engines were 84 during that time, and the pitch of her propeller 22 feet 3 inches, what must have been the slip of her propeller?

Q. Did you say 84 revolutions?

Q. 84 revolutions.      A. 18.67 per cent.

Q. Under the same statement of facts as just given in that last question, with the exception that we will assume that her engines were making 77 revolutions instead of 84, what must have been the slip of her propeller?      A. 11.28 per cent.

Q. In each of the answers referring to the slip, you mean per cent do you not?      A. Yes, sir.

Q. If the "Beaver" in passing out through the Golden Gate passes the North Heads at 1:37 P. M., Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, and under the same conditions continues her speed for a total distance of

(Testimony of Captain Olaf Lie.)

23 $\frac{1}{4}$  knots, measured from the North Heads, would it have been [163—43] possible that her engines were making only 77 revolutions during the running of the 23 $\frac{1}{4}$  knots, if her slip was more than 12 per cent?

A. No, she could not do it if the slip was more.

Q. Would it be possible under the conditions of the last question that her speed was only 11 knots?

A. Not with 77 revolutions.

Q. If the "Beaver" in passing out through the Golden Gate passes the North Heads at 1:37 P. M. and Red Buoy No. 2 at 1:45 P. M., without a change in the revolutions of her engines, and under the same conditions continues for a total distance of 23 $\frac{1}{4}$  knots, measured from the North Heads, would it be possible that her engines during the run were making 77 revolutions without a slip of 25 per cent?

A. No, sir.

Q. If the "Beaver's" speed is 15 knots per hour, with 84 revolutions, and the slip of her propeller is 18.67 per cent, what would be the speed of the vessel at the end of five minutes after the revolutions had been reduced to 76? A. 13.57.

Q. 13.57 what? A. Knots.

Q. If the "Beaver's" speed is 15 knots with 84 revolutions, and her slip is 18.67 per cent, what would be the vessel's speed if the revolutions are reduced to 77? A. 13.75.

Q. Knots? A. Knots.

Q. If the "Beaver's" speed at 77 revolutions is 13.75 knots, what would be her speed at the end of

(Testimony of Captain Olaf Lie.)

five minutes if the revolutions are reduced from 77 to 76? A. 13.57—the same as the other.

Q. If the “Beaver’s” engines are making 77 revolutions per minute, would it be at all practicable to change them to 76? [164—44]

A. No, I do not think so. He might do it in a quarter of an hour.

Q. He might do it in a quarter of an hour?

A. Yes, sir.

Q. To what extent would a change of one revolution, from 77 to 76, affect the “Beaver’s” speed in an hour, with the slip of 18.67 per cent?

A. About 0.18.

Q. Knots. A. Knots per hour.

Q. If the “Beaver” is said to have made 17.6 knots on her trial trip with 86 revolutions, what would have been the slip of her propeller?

A. 6.8 per cent.

Q. What would have been her speed with 77 revolutions on the trial trip? A. 15.76.

Q. What? A. Knots.

Q. Per hour? A. Per hour.

Q. If the slip of her propeller was 6.8 per cent, making 17.6 knots with 86 revolutions, what would the slip have to be if at 77 revolutions the vessel was only making 11 knots? A. 35 per cent.

Q. Considering that the “Beaver” had been docked three months and 18 days, or four months, say, before November 22, 1910, and at that time had had her bottom cleaned and painted, and assuming that on November 22d, 1910, with 77 revolutions, the vessel



(Testimony of Captain Olaf Lie.)

was only making 11 knots, what must have been the sea conditions on that day to account for the difference in the slip when the speed under trial trip conditions would be 15.76 knots at 77 revolutions, and on November 22d, 1910, was only 11 knots at 77 revolutions?

A. The only thing I can say is, it must have been a hurricane or [165—45] tremendously bad weather.

Q. Could such a percentage of difference in the slip be possibly accounted for by a high, long, rolling swell, in a calm?

A. No, sir, not with a ship like the "Beaver."

Q. Assuming that under trial trip conditions, with 86 revolutions the "Beaver" made 17.6 knots per hour, would it be possible that her speed was only 11 knots if the revolutions were 77 and the slip 25 per cent?

A. No, sir—absolutely not.

Q. What would be the difference in the speed of the "Beaver" between 77 and 76 revolutions on a 25 per cent slip?

A. 0.165 knots per hour.

Q. What would that difference amount to in feet, at the end of five minutes?

A. 83 feet and 6 inches.

Q. What would the "Beaver's" speed be at 77 revolutions and a 25 per cent slip?

A. 12.68 knots.

Q. What would it be on the same revolutions with 20 per cent slip?

A. 12.53 knots.

Q. I wish you would figure that out, Captain.

A. Well, ask me again.

Q. You have said 12.53 knots. What would be the



(Testimony of Captain Olaf Lie.)

speed on the same revolutions, 77, with a 20 per cent slip. A. 13.53.

Q. Not 12.53? A. No; 13.53.

Q. To what extent would a change of one revolution from 84 affect the "Beaver's" speed at the end of one hour, with a slip of 18.67 per cent.

A. I did not take the question.

Q. You cannot answer that question?

A. I can answer, I think so, but I would like to have it repeated. I did not follow it.

Q. To what extent would a change of one revolution from 84 affect [166—46] the "Beaver's" speed in one hour, with a slip of 18.67?

A. That would be the same as reducing it from 77 to 76: 0.18.

Q. If the "Selja's" speed was logged and found to be 6 knots on 40 revolutions of her engines, what would her slip be? A. 6.46 per cent.

Q. If the "Selja's" engines at 3 o'clock are making 40 revolutions and they remain at 40 revolutions until 3:05, when they are put at 20 revolutions, and they remain at 20 revolutions until 3:10, when they are stopped, and remain stopped until 3:15, what would be the distance traveled by the "Selja" from 3 to 3:15, with a slip of 6.46 per cent?

A. 6080 feet, or one knot.

Q. What would be the distance traveled by a vessel from Meiggs Wharf to the North Heads?

A.  $5\frac{5}{8}$  miles; that is from the foot of Powell Street.

Q. That is where Meiggs Wharf is?

(Testimony of Captain Olaf Lie.)

A. That is where it is reputed to be; from there to the North Heads is  $5\frac{5}{8}$  miles—knots, you must remember.

Q. Captain, on November 22d, 1910, when the “Beaver” was on her course from Meiggs Wharf to the North Heads, between the hours of 1:11 and 1:37, was there a tide? A. Yes, sir.

Q. Which way did it set?

A. In Golden Gate, flood tide.

Q. Assuming, Captain, that the point of collision was where you have placed it, and assuming also that the “Beaver” passed Red Buoy No. 2 at 1:45 o’clock P. M., what was the distance traveled by the “Beaver” from 3 to 3:05? A. 7 600 feet. [167—47]

Q. And what was the distance traveled by the “Beaver” from 3:10 to 3:13 $\frac{1}{2}$ ? A. 5250 feet.

Q. What was the distance traveled by the “Beaver” from 3:13 $\frac{1}{2}$  to 3:15? A. 2250 feet.

Q. Assuming the point of collision to be as you have placed it, Captain, what was the distance separating the “Selja” from the “Beaver” at 3 o’clock? A. 4.83 knots.

Q. What was the distance separating them at 3:05 P. M.? A. 3.1 knots.

Q. What was the distance separating them at 3:10 P. M.? A. 1.4 knots.

Q. What was the distance separating them at 3:13 $\frac{1}{2}$ ? A. 0.55 knots.

Mr. McCLANAHAN.—I will now offer this map of Drake’s Bay, California, issued by the United States Government, the markings of which have

(Testimony of Captain Olaf Lie.)

been identified by the evidence of the witness, in evidence, and ask that it be marked Libelant's Exhibit 1.

(The map is marked Libelant's Exhibit 1.)

I will offer also a map issued by the United States Government entitled "The Pacific Coast from Point Pinos to Bodega Head," and ask to have it marked Libelant's Exhibit 2.

(The map is marked Libelant's Exhibit 2.)

I also offer in evidence a map of the San Francisco Entrance, issued by the United States Government, and ask that it be marked Libelant's Exhibit 3.

(The map is marked Libelant's Exhibit 3.)

Q. Referring, now, Captain, to Exhibit 1, just introduced in [168—48] evidence, I will ask you who placed these markings on this map here (pointing)? A. I did, sir.

Q. Showing the relative positions of the "Selja" and "Beaver"? A. Yes, sir.

Q. This is your name written down here on that, is it? A. Yes, sir.

Q. Did you place that there? A. Yes, sir.

Q. When was this map prepared by you with these markings on it?

A. This map was prepared about a week ago, but I have a map at home which I prepared just after the collision.

Q. Is it the same as this? A. The same as this.

Q. This is simply a copy of the other?

A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. You prepared the other about a week after the collision?

A. I prepared it just after—I could not say exactly a week, but it was the first part of December.

Q. And it has on it the same markings?

A. Yes, the same markings.

Mr. HENGSTLER.—Q. The same figures?

A. The same figures.

Mr. DENMAN.—Q. Will you bring that here, Captain?

A. Yes, sir.

Mr. McCLANAHAN.—While I do not know whether it is proper to do so, I am going to offer in evidence the testimony already taken in the case of the case of Lie vs. the “Beaver.” This is a consolidated proceeding, and that will bring into the case all the evidence heretofore taken.

Mr. HENGSTLER.—All these suits are consolidated, but this testimony applies to all the suits.

Mr. McCLANAHAN.—Yes. There will be no harm in making the offer. [169—49]

Q. Captain, if the “Beaver” traveled from North Heads to Red Buoy No. 2 in 8 minutes, what was her rate of speed? A. 15 knots.

Q. Per hour? A. Per hour.

Q. If the “Beaver” passed North Heads at 1:37 P. M., and assuming the point of collision as you have placed it, what would be her rate of speed in order to reach the point on her course of north 86 west magnetic marked on Libellant’s Exhibit 1 as her position at 3:10 P. M. A. 15 knots.

(Testimony of Captain Olaf Lie.)

Q. Captain, did you hear the examination before the Inspectors, Captain Kidsten state while under oath the point of collision? A. Yes, sir.

Q. What was it?

Mr. DENMAN.—I object to it on the ground that it is hearsay and irrelevant, incompetent and immaterial.

A. He said Point Reyes bore northwest by west half west, 6 miles, and the South end northwest half north, 4 miles.

Mr. McCLANAHAN.—Q. Can you place on Libellant's Exhibit 1 the position of the collision as fixed by Captain Kidsten at that time? A. Yes, sir.

Q. Please do so—put the position in pencil.

A. There is where the two lines intersect; do you wish me to measure the distance?

Q. Wait a minute. You have drawn a circle where the two courses or bearings intersect?

A. Yes, sir.

Q. Will you please put your initials there opposite the same. A. Yes, sir. [170—50]

Q. Will you please verify by actual measurement the distance that Point Reyes whistle bore from that point of intersection—verify it now.

A. From what point to what point?

Q. See if this point of intersection as placed by you is now 6 miles from Point Reyes?

Mr. DENMAN.—Q. What is that scale?

A. That is three nautical miles.

Q. Three nautical miles on your compass?

A. Yes, sir.



(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. You have drawn a circle now around the bearings which was 6 miles from Point Reyes. Will you please mark that 1.

A. Yes.

Q. Put a circle around that “1,” Captain. Will you please put “2” opposite the point which bears 4 miles from the South end of Point Reyes.

A. Yes.

Q. Will you please mark the intersection of those two lines where you have your initials “3.”

A. Yes.

Q. Now, Captain, if from the “Selja” at 3 o’clock the Point Reyes Siren bore due north magnetic by compass bearing, and assuming the point of collision to be as fixed by Captain Kidsten, what would be the distance the “Selja” would have to travel to reach it in 15 minutes—I mean by the point of collision the intersection of those two bearings.

A. I will measure it first.

Q. I want to know the distance the “Selja” would have to travel to reach it in 15 minutes. Please measure it on the map.

A. (After measuring.) That is about 5.6 miles distant.

Q. The distance is 5.6 miles. A. Yes. [171—51]

Q. That is the “Selja” would have to travel in order to reach that point from 3 o’clock that distance? A. Yes, sir.

Q. At what rate of speed, Captain, would the “Selja” have to travel in order to reach it?

(Testimony of Captain Olaf Lie.)

A. The rate of speed would be 22.4 knots per hour.

Q. Per hour? A. Yes, sir.

Q. What, as a matter of fact, was the distance traveled by the "Selja" from 3 to 3:15 P. M.?

A. One knot.

(An adjournment was here taken until Monday morning, June 12th, 1911, at 10 A. M.) [172—52]

Monday, June 12th, 1911.

OLAF LIE, direct examination resumed.

Mr. McCLANAHAN.—Q. Captain, I believe you said that the "Beaver's" whistle sounded for five seconds; when did you find that out?

A. I found that out. I timed it by my watch.

Q. Did the first whistle which you heard of the "Beaver" sound as the others did, with reference to its duration?

A. Yes, pretty near. I did not time the first one, but it sounded to me as long as the others.

Q. At what interval, with reference to the "Beaver's" whistle, after 3 o'clock, did the "Selja's" whistle blow?

A. Answered his whistle, just between his whistles.

Q. That is the "Beaver's" whistle was in answer to your whistle? A. Yes, sir.

Q. From 3 o'clock until when?

A. Until the collision.

Q. What kind of a whistle was the "Selja's" whistle? A. A good whistle, a very good one.

Q. Do you know whether that whistle was ever tested, or not?

(Testimony of Captain Olaf Lie.)

A. It was only tested by the Board of Trade while she was new, if it blew, if it sounded immediately when you pulled the string.

Q. How do you know that it was tested by the Board of Trade?     A. I saw it.

Q. You were there when the test was made?

A. Yes, sir.

Q. What was the result of the test?

A. That it blew immediately when you pulled the string.

Q. I hand you a paper, Captain, which I would like to have you identify, in fact two sheets of paper. What are those sheets of [173—53] paper (handing)?

A. Representing bills for returning the Chinese crew and subsistence at the Immigration Station.

Q. Those represent the amounts paid by you for the return of the Chinese crew of the "Selja" to China from this port, and also their keep while here waiting to be transported?     A. Yes, sir.

Q. These bills are paid by you, were they?

A. They were paid by me on a draft on my owner.

Q. Presented to you by the—

A. Pacific Mail Steamship Company.

Q. The Pacific Mail Steamship Company?

A. Yes, sir.

Q. Those bills are fair, are they? The amount charged is fair?

A. Well, I should say so, that the amount there is—I drew on my owner for the amount that is written there, that is all I know.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—We offer these in evidence, one bill for \$1,771.20, and one for \$160.38, and ask that they be marked as libelant's exhibits.

(The papers are marked respectfully Libelant's Exhibits 4 and 5.)

Q. I hand you a paper and ask you if you can identify that? A. Yes, sir.

Q. What is it? A. Engine-room stores.

Q. Whose engine-room stores?

A. The "Selja's" engine-room stores, lost in the collision.

Q. Were those stores on board at the time of the collision? A. Yes, sir.

Q. That is a fair and truthful statement of the stores that were lost and their value at the time of the loss? A. Yes, sir. [174—54]

Q. On this collision. A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence. That will be marked Libelant's Exhibit 6.

(The paper is marked Libelant's Exhibit 6.)

Q. This last exhibit 6 is signed with your name is it? A. Yes, sir.

Q. That is your signature? A. Yes, sir.

Q. I hand you this further paper and ask you if you can identify that (handing)? A. Yes, sir.

Q. What is that? A. Deck stores lost.

Q. Lost where?

A. In the collision with the "Beaver"—deck stores belonging to the "Selja."

Q. Is that a fair and truthful statement of the deck stores that were lost and their value at the

(Testimony of Captain Olaf Lie.)

time of the loss?      A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence as Libelant's Exhibit 7.

(The paper is marked Libelant's Exhibit 7.)

Q. You have also signed exhibit 7 with your name?      A. Yes, sir.

Q. I hand you this paper and ask you what that is (handing).

A. That is provisions for the Chinese crew, lost in the collision with the "Beaver."

Q. What do you mean by provisions for the Chinese crew. What do you mean by that expression?

A. It is their grub, to keep them till we came back to China.

Q. That was on board at the time.

A. Yes, sir.

Q. And belonged to the "Selja?"      A. Yes, sir.

Q. Is this statement here a fair and truthful statement of the provisions that were on board, which you have called the Chinese [175—55] crew's provisions, and their value.      A. Yes, sir.

Q. The value stated in United States gold coin is \$261.45.      A. Yes, sir.

Q. That is correct, is it not?      A. Yes, sir.

Q. And that is your signature?      A. Yes, sir.

Mr. McCLANAHAN.—I offer this in evidence as exhibit 8.

(The paper is marked Libelant's Exhibit 8.)

Q. Captain, I hand you this paper and ask you what it is?



(Testimony of Captain Olaf Lie.)

A. It is spare gear and outfit on board the S. S. "Selja" when lost at Point Reyes.

Q. When lost what?

A. When lost off Point Reyes, in the collision with the "Beaver."

Q. Is that a truthful and fair statement of the spare gear and outfit on board the "Selja" that was lost at that time?     A. Yes, sir.

Q. And those values there are the reasonable values of those articles at the time of the loss?

A. Yes, sir.

Q. Captain, were these items, or any of them, included in the contract price of the "Selja"?

A. No, sir.

Q. Those are in addition to the usual gear and outfit that go on a ship when she is built?

A. Yes, sir.

Q. That is your signature on this paper?

A. Yes, sir.

Mr. McCLANAHAN.—I offer this in evidence as Libellant's Exhibit 9.

(The paper is marked as Libellant's Exhibit 9.)

Q. I hand you, Captain, a further bundle of papers, five of them, in all, and ask you what they are (handing)?

A. They are personal effects lost by myself, wife and two children [176—56] in the collision with the "Beaver."

Q. Is that a fair and truthful statement of those personal effects?     A. Yes, sir.

Q. And they were lost at that time?

(Testimony of Captain Olaf Lie.)

A. Yes, sir.

Q. And the value placed opposite these items are the reasonable value of the goods at the time they were lost? A. Yes, sir.

Q. And it aggregates \$1,973.25, as shown by the first page? A. Yes, sir.

Q. That is your signature, is it? A. Yes, sir.

Mr. McCLANAHAN.—I offer that as exhibit 10. (The paper is marked Libelant's Exhibit 10.)

Q. Captain, did you pay anything in the matter of the taking of the maritime declaration before the Swedish Consul? A. Norwegian Consul?

Q. Yes. A. Yes.

Q. How much did you pay? A. \$43.

Q. Does that bill represent what you paid (handing)? A. Yes, sir.

Q. And that was caused through the collision, the necessity for that? A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence as Exhibit 11.

(The paper is marked Libelant's Exhibit 11.)

Cross-examination.

Mr. PAGE.—Q. Let me ask you a question about that last exhibit 11, the maritime declaration. Was that the protestor was it the testimony that was taken by the Consul in order to send forward an account of how the collision occurred? A. Yes, sir.

Q. It was not the protest—there was a protest, was there not? [177—57]

A. It was a protest, and then this is the ordinary

(Testimony of Captain Olaf Lie.)

maritime declaration taken before the Norwegian Consul.

Q. That is the Consul examined all the witnesses who were on board your ship? A. Yes, sir.

Q. And took their statements and sent them on to the government in Norway; was that it?

A. The Consul did not do it. The United States Commissioner, Mr. Brown, did it.

Q. But under the request of the Consul?

A. Yes, sir.

Mr. McCLANAHAN.—Q. That is required by the Norwegian law? A. Yes, sir.

Mr. DENMAN.—Q. Copies of that report are here, are they not, that you made, through Mr. Brown?

A. I do not know. I have no copy of it.

Mr. DENMAN.—Have you a copy of that?

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—You served me with a copy of that.

Q. There is also a maritime protest, isn't there, in addition to that, that you filed?

A. That is the first day we came.

Mr. DENMAN.—There is another protest, the one you took before Edelman.

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—Q. That is here—is that charged up in these charges?

A. No; that was only 25 cents.

Mr. McCLANAHAN.—We will now withdraw the Captain and put Mr. Frey on.

Mr. DENMAN.—Very well. [178—58]

[**Testimony of Adolph Julius Frey, for Libelant.**]

ADOLPH JULIUS FREY, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. Mr. Frey, you are assistant manager, are you not, of the respondent or claimant in this case, the San Fransisco and Portland Steamship Company?     A. Yes, sir.

Q. You verified the interrogatories which were attached to the libel in the freight suit, did you not?

A. Yes, sir.

Q. Mr. Frey, what is the pitch of the “Beaver’s” propeller?

Mr. DENMAN.—Q. Do you know that of your own knowledge?     A. I do not.

Mr. McCLANAHAN.—Q. Have you any knowledge on the subject at all, Mr. Frey?

A. Simply the information such as I could obtain.

Q. Where did you obtain the information from?

A. Through—well, I could obtain that through the marine superintendent of the company or from the chief engineer of the ship.

Q. Or from the builders?

A. The pitch at what time?

Q. On November 22d, 1910.

A. The builders have no knoweldge of that.

Q. That don’t answer my question. Can you obtain the pitch from the builders?     A. No.

Q. Not with reference to that time but at any time?

A. Not with reference to that time.

Q. For what time could you obtain the pitch of the propeller from the builders?

(Testimony of Adolph Julius Frey.)

A. Simply the pitch at the time of—the pitch prior to the delivery of the ship to the owners.

Q. That would be the pitch at the time of the trial trip? A. Yes, sir. [179—59]

Q. What was the pitch of the propeller at the time of the trial trip—

Mr. DENMAN.—I object—

Mr. McCLANAHAN.—Wait until I finish my question.

Q. (Contg.) —as obtained from the builders?

Mr. DENMAN.—I object to that question on the ground that it is hearsay—

Q. You do not know that of your own knowledge, do you? A. I do not.

—and on the ground it is irrelevant, incompetent and immaterial, and in no way binding on the claimant. Wait an instruction on that, Mr. Frey.

Mr. McCLANAHAN.—Q. Answer the question.

Mr. DENMAN.—We will take that up with the Court. I instruct him not to answer; we will take that up with the Court.

Mr. McCLANAHAN.—Do you want to stop this whole proceeding?

Mr. DENMAN.—No. We will refer that question up in due time. That is the way they do with those questions, when you ask improper questions. It is hearsay, what knowledge he had from the builders.

Mr. McCLANAHAN.—Q. Mr. Frey, haven't you the same knowledge with reference to the "Beaver" that you have as to the other ships of yours—do you want to say under oath to us you have no knowledge?



(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—He has not said that.

Mr. McCLANAHAN.—Q. That you have no knowledge as to the pitch of the propellers of your different ships?

A. I have not, no personal knowledge.

Q. Isn't that quibbling with the question? Haven't you knowledge that is perfectly satisfactory to you as assistant manager of the company?  
[180—60]

A. I have not gone down and measured the pitch of the wheel of the vessels.

Q. Aren't you quibbling, Mr. Frey, when you say you haven't measured the wheel?

Mr. DENMAN.—The question is unintelligible, Mr. McClanahan.

Mr. McCLANAHAN.—The witness has not said so.

Mr. DENMAN.—I am going to point out wherein—

Mr. McCLANAHAN.—Are you pointing out that the witness said something unintelligible?

Mr. DENMAN.—Let me finish my objection before interrupting me.

Mr. McCLANAHAN.—You did not accept my suggestion when I asked you to not interrupt me, and so I have taken your suggestion.

Mr. DENMAN.—I have not interrupted you until you have finished. I object to the last question because it is improper in a legal sense, and in the second place it is not intelligible; he has already testified that he has not measured the wheel and does not

(Testimony of Adolph Julius Frey.)

know. The knowledge you want is accurate knowledge for the purpose of making computations as to the speed of the vessel at that time; there is a perfectly proper way of obtaining that information.

Mr. McCLANAHAN.—Read the question.

(The last question repeated by the reporter.)

A. I have not. The data or information which I have is that given me by the officers in direct charge of the particular work.

Q. That is the only method you have, Mr. Frey, of knowing a great deal about your ships that you do know, is it not? A. That is correct.

Q. Well, now, what is the information that you have with reference [181—61] to the pitch of the “Beaver’s” propeller?

Mr. DENMAN.—At what time?

Mr. McCLANAHAN.—I am asking for all his information, Mr. Denman.

Mr. DENMAN.—Then I object to that on the ground it is indefinite, because there are a number of times, and he has gotten it from different persons, through different channels, and he can not answer the question as indefinite as that.

Mr. McCLANAHAN.—Q. Answer the question.

A. Does this refer to the time of the trial trip?

Q. If you want it to, I will get all the information you have before I get through with you.

Mr. DENMAN.—What is the question now?

Mr. McCLANAHAN.—I want the information that he has with reference to the pitch of the “Beaver’s” propeller?

(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—Q. Is this information you have of your own knowledge?

A. No, it is not.

Mr. McCLANAHAN.—Q. Answer the question.

A. My recollection is that at the time of the trial trip the pitch of the wheel was 22 feet 9 inches, that is, furnished us by the builders.

Q. That is your best recollection?

A. That is my recollection, yes.

Q. Where did you get that information from?

A. From the builders; that was furnished by the builders.

Q. Where is the data which shows that on record?

A. Well, that is matter of record in the office of the Newport News Shipbuilding and Drydock Company. [182—62]

Q. From that office it was transmitted to you, was it?

A. Yes, sir.

Q. Where is the transmitted copy?

A. There is a copy in the office of our marine superintendent, I believe, in San Francisco.

Q. Can you produce it?

A. I believe so; if it is there.

Q. Will you please produce it. When did you see this copy last?

A. I saw it to-day, I think; I think it was lying on my desk at that time.

Q. When did you see it before to-day last?

A. I saw it—

Q. Let me see if I can refresh your memory: Did you see it when you swore to these interrogatories?

(Testimony of Adolph Julius Frey.)

A. I did not.

Q. When did you see it before today last?

A. I saw the information, I believe, some time in the summer of 1910.

Q. Is that an answer to my last question?

A. When did I see it last?

Q. Last before yesterday or to-day. A. Yes.

Q. Where did you see it then?

A. That passed through our office.

Q. Was that the time that you received it first?

A. Yes, sir.

Q. And you have not had occasion to look at it since then until to-day? A. No, not personally.

Q. Why did you qualify it; did you have some one in your office do it for you?

A. A great many of these things are looked after by subordinates.

Q. When you want information you often times ask a subordinate to get it from the data that you have in your office? A. Yes, sir. [183—63]

Q. Was that the course you pursued in answering the interrogatories that were annexed to the answer with reference to the trial trip of the "Beaver"?

A. That is correct.

Q. That is, you had some assistant in your office to give you the information that you wished with reference to the trial trip? A. Yes, sir.

Q. And it was furnished you? A. Yes, sir.

Q. Do you know whether that assistant secured the information from this data which we called for from you? A. No, sir.

(Testimony of Adolph Julius Frey.)

Q. Where from?

A. I do not know. It was some that was gotten from, I presume, from certain data which is on board the ship. I say that because certain data could not be furnished until the "Beaver" returned to port; she was on her way to Portland at the time.

Q. Who was the assistant that furnished you with this data on which you based your answers to the interrogatories?

A. Well, some was furnished by G. L. Blair.

Q. G. L. Blair; what does he do?

A. He is the general freight agent of the San Francisco and Portland Steamship Company; by virtue of that position he is also agent at San Francisco.

Q. And who was the other data furnished you by?

A. I believe some other data was furnished by Mr. Chisholm, the marine superintendent.

Q. What are his initials?

A. William. So far as the displacement—I believe there is a question in there about the displacement—of the ship is concerned, I figured that out personally from the blue-prints.

Q. From the blue-prints?

A. Yes, sir. [184—64]

Q. Have you blue-prints of the "Beaver?"

A. Well, there is a displacement scale.

Q. Who else furnished you data of your men?

A. That is all.

Q. Just those two men?      A. Yes, sir.

Q. I call upon you to produce the report from the builders on which you say you think the pitch was



(Testimony of Adolph Julius Frey.)

22 feet 9 inches. Has this pitch been changed since the ship was built? A. Not to my knowledge.

Q. Did you hear the chief engineer testify in this case before the Inspectors?

A. I believe I did, I am not positive whether I heard all the testimony—I believe I did.

Q. Do you know where he got his information about the pitch of the wheel?

A. Well, no, I do not; possibly he measured it up himself.

Q. Do you remember what he said it was?

A. No, I do not.

Q. Is the engineer, the chief engineer, going to testify in this case?

A. It just passes through my mind my recollection may be faulty regarding the pitch of the wheel. That is my recollection of it.

Q. Will your chief engineer testify in this case?

A. Will he?

Q. Yes. A. I do not know.

Q. He is still with the "Beaver," is he?

A. Yes, sir.

Q. Does this report from the builders also show the "Beaver's" draught fore and aft at the trial trip? A. Yes, sir.

Q. Do you recollect what that was?

A. It was 13-odd forward—I don't know whether it was 13.9; I think so. And I think it was about 17 aft.

Q. You think about 17 aft? [185—65]

A. About 17 feet aft.

(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—Same objection to all this testimony.

A. That is my recollection.

Mr. McCLANAHAN.—Q. What was the corresponding displacement of that draught?

A. About 4400, I should judge.

Q. About 4400. And that data will appear on this report from the builders? A. Yes, sir.

Q. Now, Mr. Frey, was not the "Beaver" last docked before the collision on the 4th of August, 1910?

A. She was docked in August, 1910. I could not say whether it was the 4th or not.

Q. Now, if you will just bring the reports of the builders, I think that will be all.

Cross-examination.

Mr. DENMAN.—Q. Mr. Frey, I will ask you whether or not any of the testimony you have given in certain places, any of the testimony you have given, is your own knowledge?

A. The exact information regarding the pitch of the wheel?

Q. Yes. As a matter of fact, all the testimony you have given here has been hearsay testimony, hasn't it? A. Absolutely.

Q. You have no personal knowledge of any of these things have you?

A. No, with the exception of the question about the chief engineer, still being on the ship.

Mr. McCLANAHAN.—Q. You have not personal knowledge of that? A. He was at last accounts.

(Testimony of Adolph Julius Frey.)

Q. You believe he is there just as you believe the figures that you have given me that you have taken from the reports of the builders to be correct, don't you? You believe them to be correct, don't you?  
[186—66]

A. In the absence of proof to the contrary I should assume that they were correct.

Mr. DENMAN.—That is only an assumption.

Mr. McCLANAHAN.—Q. They are the figures on which you base your conduct with reference to the "Beaver" wherever that data is involved?

A. Well, there are a great many conditions which I do not want to have it understood that we are guided absolutely by that data, because there may be a great many other conditions, weather conditions, the condition of the hull, which may vary the performance of the ship very materially.

Q. But ordinarily you rely upon them?

A. It is taken as a basis.

Q. Ordinarily you rely upon the data furnished by the builders? A. For general purposes.

[Testimony of Captain Olaf Lie, for Libelants—  
Cross-examination.]

OLAF LIE—Cross-examination.

Mr. DENMAN.—Q. Captain Lie, we had a great deal of testimony from you yesterday of a scientific nature, regarding various calculations as to the speed of the "Beaver," based on various hypothetical questions that were put to you, and assuming knowledge of the data as to what her trial trip speed was and all that sort of thing. Now, who prepared the ques-

(Testimony of Captain Olaf Lie.)

tions that were put to you here by Mr. McClanahan.

Did you prepare them or Mr. McClanahan?

A. Mr. McClanahan prepared them.

Q. On data given to him by you?

A. I gave him the facts of everything and then he prepared the questions. [187—67]

Q. Who made the calculations that were made?

A. I made the calculations.

Q. Did you give him the papers on which those calculations were made or just the mathematical results? A. I just gave him the results.

Q. So that Mr. McClanahan did not work those out; you worked those out?

A. Mr. McClanahan had nothing to do with the working out.

Q. As a matter of fact, you have had a great many consultations with Mr. McClanahan during the course of the preparation of this case?

A. I have been there many times.

Q. Two or three times a week?

A. I could not say exactly how many times.

Q. You have been there a good many times; it would be pretty near that many times?

A. Yes; perhaps more.

Q. Referring to another matter, you said that you were for a time employed as a seaman on an excursion steamer on the Norwegian coast; do you recollect that? A. Yes, sir.

Q. Before that you had taught in the Nautical School? A. Yes, sir.

Q. What did you teach?

(Testimony of Captain Olaf Lie.)

A. I taught in regard to navigation.

Q. That is to say you went from the Nautical School, teaching navigation, to the position of ordinary seaman before the mast is that it?

A. I was teaching assistant. I was assistant instructor teaching seamen that wanted to pass to get chief officer's certificate.

Q. I see. At that time had you your first officer's certificate? A. I had my officer's certificate.

Q. Had you your master's certificate at that time?

A. No, sir. [188—68]

Q. Now you say you studied maritime law there also? A. Yes—that is not in passing as mate.

Q. Well, when did you study maritime law—when was it? A. When passing as master.

Q. Passing as master? A. Yes, sir.

Q. And you kept up your study of maritime law ever since?

A. Not exactly—the maritime law that I need on board of ship.

Q. Have you read any of the cases in connection with this case? Did you look at any American reports at all? A. No.

Q. Not one?

A. Well, perhaps one or two cases in the United States.

Q. In the United States in connection with this case? A. Yes.

Q. Now isn't it a matter of fact that instead of being one or two you read about half a dozen?

A. No, sir, I have not.



(Testimony of Captain Olaf Lie.)

Q. What one or two did you read?

A. I read the *Tellus* and the *Commonwealth*.

Q. You and Mr. McClanahan exchanged scientific knowledge and legal knowledge together, didn't you?

A. I told Mr. McClanahan only the facts of my case.

Q. I know that. In the course of that you discussed the *Tellus* case—did he give you the *Tellus* case, or did you find it yourself?

A. I got the book.

Q. Who gave you the book?

A. I got it from Mr. Derby.

Q. He is Mr. McClanahan's partner, isn't he?

A. Yes, sir.

Q. And they directed your attention to that case, didn't they?

A. No; I asked for it, because he told me about it, and I was interested to see it.

Q. Now, do you recollect the drawing of the libels in these [189—69] cases?

A. Yes, I recollect; I could not say exactly the wording of it.

Q. But you do remember they were drawn?

A. Yes, sir.

Q. That you read them over?      A. Yes, sir.

Q. Let us see what the libels were; there was one in the freight suit?

A. I have nothing to do with the freight suit.

Q. You have nothing to do with it but you saw the libel that was drawn in that suit, didn't you?

A. Well, I think I saw it once.

(Testimony of Captain Olaf Lie.)

Q. You read it over at Mr. Derby's request?

A. I did not read that over more than perhaps half of it.

Q. Which half of it did you read? You read the description of what you did there?

A. That is it, nothing else.

Q. That is to say from the time—the paragraph of the libel which referred to the happenings at the time of the collision? A. Yes, sir.

Q. That is what you refer to? A. Yes, sir.

Q. The libel stated it correctly, didn't it?

A. I think so.

Q. You did not notice anything wrong when you read it? A. No, sir.

Q. Now, you say that you read the Tellus case. We will drop that for the moment. Now, at 3 o'clock, when you heard the whistle of the "Beaver" what course were you sailing? A. South 65 east.

Q. And that would take you directly to the lightship, would it not?

A. A little to the southward of it.

Q. Wouldn't you go straight to the lightship?  
[190—70]

A. No, sir, not exactly.

Q. Didn't you say that it would in the testimony before the United States Inspectors?

A. I think I said perhaps a little to the southward, I think I did.

Q. What did you say in your statement before the Norwegian Consul?

A. I think I said I shaped my course for the light-

(Testimony of Captain Olaf Lie.)

ship—the course was shaped for the lightship, but it was a little to the southward.

Q. You would not go two or three miles to the southward?

A. No; it might be a quarter of a mile or an eighth of a mile.

Q. A quarter or an eighth of a mile to the southward of the lightship?     A. Yes, sir.

Q. Now, then, you say that you heard this whistle of the “Beaver” straight ahead at that time?

A. That is what it appeared to me.

Q. Dead ahead at 3 o'clock, when you first heard it?     A. Yes, sir.

Q. And you said that you did not know whether it was a factory—or was it a factory you said—what was it you said?

A. I did not say anything of the kind. I did not say factory.

Q. What was it you said?

A. I said that the whistle was located by me—the third officer and also chief officer was there, and that whistle was located, and we all agreed on it to be about right ahead and far off, but at that moment I did not know what it was. It came to my mind that it was one of the whistles off the Golden Gate, because it sounded so far away.

Q. Now the whistles at the Golden Gate were how far away?     A. Over 20 miles, more or less.

Q. It was a thick fog?

A. It was—well I said that you [191—71] could see perhaps two ships lengths.

(Testimony of Captain Olaf Lie.)

Q. Was it a thick fog? A. It was a dense fog.

Q. A dense fog? A. Yes, sir.

Q. Your idea is that you think it reasonable to hear the whistles off Golden Gate, 20 miles away, in a dense fog—as a reasonable supposition as to what that was?

A. Well, that is what came into my mind.

Q. Do you think the other two officers agreed with you on that subject?

A. I did not ask them that. We agreed upon it that that whistle was far away, and the conditions of the weather at that time was so fine that we never had any slightest doubt that there was any danger of collision.

Q. Now, I am not talking about danger of collision. Just confine your answers to my questions. You have had a chance and you will have plenty of chance given you by Mr. McClanahan when he takes charge of you. You say that you had discussed with the other officers, but you did not mention at that time to them— A. Did not mention—

Q. Wait a moment—the fact that it might be this land whistle?

A. I did not mention that to the chief officer. I mentioned it to the third officer when we commenced to time it.

Q. When you commenced to time it?

A. When we commenced to time it.

Q. When did you commence timing it?

A. That is at 3:05.

Q. You commenced at 3:05 to time it?

(Testimony of Captain Olaf Lie.)

A. Yes, sir.

Q. In other words, you heard this whistle blowing intermittently for five minutes without commencing to time it; is that correct?

A. Well, not exactly 5 minutes—but about 4 minutes, perhaps. [192—72]

Q. At that time you were in a dense fog. And by the way, were you in the path of the vessels coming out of the Golden Gate going north?

A. Well, we were in—we expect to meet vessels there, yes.

Q. That is the regular path, isn't it, for vessels coming into the Golden Gate and going out?

A. Yes, sir.

Q. And you say that you thought it was dead ahead, but that it might be one of the whistles in the Golden Gate; that is correct is it? A. Yes.

Q. Now, how about the direction of sounds coming through fog; is that a thing that you can determine with certainty or is it a matter that you are liable to be deceived by?

A. I have never been deceived upon it.

Q. So that you thought at that time that might be a whistle coming from the Golden Gate dead ahead under the course that you were sailing?

A. I didn't have in my mind exactly where the Golden Gate was at that moment. That just came to my mind because I didn't have the bearings of Golden Gate in my mind. I was steering the course for the lightship.

Q. You did not shape the course for the lightship



(Testimony of Captain Olaf Lie.)

without using a chart, did you?

A. I used the chart, but I did not really know at that moment exactly what the bearing of Golden Gate was.

Q. Well, how far is Golden Gate from the lightship?

A. I do not know exactly how far it is.

Q. It is six or seven miles, isn't it?

A. I do not know exactly how far it is.

Q. Well, it is over six miles, isn't it?

A. Well, I don't know how far it is.

Q. You had the chart before you within five minutes before that, [193—73] hadn't you?

A. Yes, sir.

Q. And it was six miles—you had seen it within five minutes, hadn't you?

A. Well, I did not measure that. I could not say. I would say perhaps six.

Q. But I mean, you could tell on the chart whether it is. A. Yes.

Q. Well, now, so that at that time you thought this sound was dead ahead of you—you located it as dead ahead of you and you thought it might be a whistle from the Golden Gate; that is correct, is it?

A. Yes, sir.

Q. And yet the Golden Gate is at least six miles from the lightship; is that correct?

A. It is to the north of the lightship, yes.

Q. Not to the northward. Let us take the chart and look at it.

A. As a matter of fact from the Point Bonita I was about east.

(Testimony of Captain Olaf Lie.)

Q. We will get the angle of that. We have got plenty of time. Now, Mr. McClanahan did not tell me yesterday the kinds of experts that you could qualify as, but I presume that you are sufficiently expert to be able to determine the distance on a chart with a compass and the standard of distance given you, aren't you? A. I think so.

Q. You qualified as that? A. I think so.

Q. You notice there is one half of this chart here.

A. That is right.

Q. The scale is not on there?

A. I do not want the scale. Here is a scale. I do not want that.

Q. I do need it, Captain; I very much need it.

A. Here is the scale.

Q. What is this that you are pointing to? [194—74]

A. This is a scale of latitude.

Q. Scale of latitude? A. Yes, a nautical mile.

Q. A nautical mile? A. Yes.

Q. Now, the half miles are not given, are they, very well? A. No, but I can fix that.

Q. Now, what is the distance from the—where was the point you were steering for. Just a moment.

A. I was steering for here, about (pointing).

Q. Mark that point, will you please.

A. About there (pointing).

Q. Just mark that, please; mark it "X"; put "Lie 1" after it, if you will please. A. Yes.

Q. What distance do you make that?

A. From what?

(Testimony of Captain Olaf Lie.)

Q. South of the lightship?

Mr. McCLANAHAN.—From where?

A. Here is point No. 1. Well, it is, you see—that point just suggested by me—

Mr. DENMAN.—Q. I know, Captain, but for my information—

A. (Contg.) You know about half a mile.

Q. That was the point when you looked at your chart, and that is the point you expected to go to (pointing). A. Yes.

Q. That was the point you were sailing for; when you said dead ahead, that would be a point dead ahead, wouldn't it (pointing)? A. Yes, sir.

Q. Now, how far is that point—just mark on here a point southeast of the Point Bonita in 35 fathoms of water. A. That is one point I had.

Q. But I know; just mark that point, southeast of Point Bonita in 35 fathoms of water.

A. South southeast? [195—75]

Q. No, southeast of Point Reyes. Southeast of Point Reyes. I want you to mark that point, southeast of Point Reyes, 35 fathoms of water.

A. Southeast—yes, I will take southeast, but that has nothing to do—I don't know what that means.

Q. I know, but I want that mark.

A. I said before the inspectors a southeasterly direction, and that did not mean southeast. I remember now what you are at. I did not say before the inspectors that it was southeast, I said a southeasterly direction; southeast is southeast directly.

Q. I have not said anything about the inspectors.

(Testimony of Captain Olaf Lie.)

A. No, but you know I remember it.

Q. I know but—

A. That is quite correct, I do not deny anything, Mr. Denman.

Q. I do not want you to deny anything; this is what I want you to verify.

A. I tell you this is the truth.

Q. Give me your 35 fathoms of water that you have there on the point you were speaking of before the inspectors—35 fathoms of water?

A. It is in the southeasterly direction; I said southeasterly direction, a southeasterly direction; it might be south southeast; it might be east southeast.

Q. I am quite well aware of that.

A. It is **not 35 fathoms** of water on that line except you get away down.

Q. Give it to me.

A. I will give you south southeast, which is the correct direction—south southeast is the correct direction—that is a southeasterly direction.

Q. Come on.

A. We had 35 fathoms of water on the line reported to me by the second officer,—

Q. Wait a minute. I am not asking for that. Where is the 35 [196—76] fathoms?

A. 35 fathoms may be there (pointing); it does not say anything.

Q. How do you know it was there then?

A. Because of the distance I run from abeam of that light.

Q. From abeam of the light.      A. Yes.

(Testimony of Captain Olaf Lie.)

Q. Coming back to the direction taken in the fog, do that—find that.

A. I had three bearings and that was made at the time by me as near as I could make it.

Q. The point that you are referring to now is this point here (pointing)?

A. That is  $2\frac{1}{2}$  miles south southeast of Point Reyes.

Q. South southeast of Point Reyes?

A. Yes, sir.

Q. And in 35 fathoms of water?

A. That is what they reported to me by the lead. I did not look at the chart at that moment—I never looked at the chart then but the second officer gave me 35 fathoms.

Q. Now, I wish you would draw me a line—

Mr. HENGSTLER.—Get him to mark that point.

Mr. DENMAN.—No; that is all right.

Q. Just draw that line between that point and that point you have marked south of the lightship.

Mr. McCLANAHAN.—Q. Before you do that, Captain, have you placed the distance from the light to there? A. I have not.

Q. Well, do it please.

Mr. DENMAN.—That is marked circle,  $2\frac{1}{2}$  miles south southeast of the Point Reyes Lighthouse.

Q. Now, just connect that up with this, please.

A. I am marking my course. [197—77]

Q. You follow my question. Just draw the line there (pointing). A. Yes.

Q. Now, draw a line from this first point to the



(Testimony of Captain Olaf Lie.)

Point Bonita lighthouse; when the whole thing is done I will ask you about it.

A. Is that correct (drawing)?

Q. That is correct. Now, continue this line from the point circle below Point Reyes—continue this line through the course south of the lightship for say two inches. A. Yes.

Q. Now, measure the distance on the line running through the lightship that Point Bonita is from the point south of Point Reyes.

A. This line here (pointing).

Q. No; measure that; take this distance. Do not cut up the map.

A. I did not cut it. That is 8 knots.

Q. One moment. You have not got it right yet. Measure the distance on the line to the point below Point Reyes that the Point Bonita lighthouse was from this point here—get that distance and put it on the other log from point 0. Mark that point “Lie 2” to Point Bonita. A.  $7\frac{1}{4}$  miles.

Q.  $7\frac{1}{4}$  miles. Now, as I understand it, to repeat my question, you thought this sound came from dead ahead on your course and at the same time you thought it might come from the lighthouse that was  $7\frac{1}{4}$  miles off that course?

A. I did not think it was  $7\frac{1}{4}$  miles. The thought just came into my mind, that is all.

Q. But you were in the fog then, weren't you?

A. Yes, I was in a dense fog.

Q. In the course of vessels coming out of the Golden Gate? A. Yes, sir. [198—78]

(Testimony of Captain Olaf Lie.)

Q. And you thought that this—you were trying to make up your mind what it might be?

A. Yes, sir.

Q. Had conversation with your other officers at that time, didn't you? A. Yes, sir.

Q. And at that time you thought that dead ahead of you was the sound of a lighthouse that was actually  $7\frac{1}{4}$  miles off your course; that is correct?

A. I did not say it was a lighthouse  $7\frac{1}{4}$  miles from my course. I said that the sound practically right ahead so sounded to me, so faint and indistinct, it seems to me it would be off the Golden Gate. That is what I said.

Q. But you say you did think it came from the land whistle? A. Yes, sir.

Q. And it might be those whistles 20 miles off, through a dense fog, and  $7\frac{1}{4}$  miles off your course?

A. Dense fog does not interrupt any sound; in dense fog you can head a sound better than in clear weather.

Q. You can?

A. So they say; that is what I read.

Q. That is your knowledge regarding the fog, what you read, is it?

A. Well, and my experience also, that I have heard the fog whistles.

Q. Then as a result of your experience you thought that this fog-whistle  $7\frac{1}{2}$  miles off your course might be directly on your course?

A. I did not say  $7\frac{1}{2}$  miles off my course.

Q. It was, in fact?

(Testimony of Captain Olaf Lie.)

A. I did not have that exactly in my head at that time, but when—

Q. Wait a minute.

Mr. McCLANAHAN.—Let him finish his answer.

Mr. DENMAN.—Q. Didn't you have the chart?

A. (Contg.) It came into my mind and I knew that it was absolutely no danger [199—79] of collision, and as a matter of fact I heard the sea-gulls fly, and it was so quiet that I could hear anything about; it was absolutely quiet.

Q. Now, as a matter of fact, how many points off your bow would that fog-whistle from the land have been? A. About a point and a quarter.

Q. Now, just measure that.

A. That is easy. I can take that. Well, it is not there. I have got to take it up there. It is not from this point. I have got to take it from the point I first heard, not from the point there.

Q. All right. You take it then from the point you first heard it.

A. Then I have got to figure this. This is only a guess, this is not the course.

Mr. McCLANAHAN.—Q. What are you pointing to when you say that?

A. The lightship, because I said the course would take me to the southward of that.

Mr. DENMAN.—He said it would not take him two miles to the southward of it.

The WITNESS.—No.

Mr. DENMAN.—Q. You have the points there, Captain.

(Testimony of Captain Olaf Lie.)

A. Any man can do that when you have the data. This is not anything that is secret; there is no secret in it.

Q. There will be no secrets between us when we get through with the examination.

A. That is 21 degrees.

Q. How many points is that?

A. That is one and three-quarters points.

Q. So that at that time then in determining what this sound was you determined that a sound which should have been one and three-quarters [200—80] points off your bow, as a matter of fact was dead ahead?

A. As I said before, I did not know exactly how many points the Bonita Point was off, because I did not look at that when I left the chartroom, and it sounded to me so far away that it just came into my thought, that is all. That is what I said, it just came into my mind, that is what I thought. I did not ascertain this by going into the chartroom and seeing how many points it was on the bow because I did not have time to do that.

Q. You had just been in the chartroom, hadn't you? A. I had.

Q. You had just located the lightship, hadn't you?

A. I did not locate the lightship; I just took my parallel ruler to take the course for the lightship and went out; I never paid any attention to what the bearing was; I just took the parallel ruler and took the course for the lightship and shaped the course for the lightship.

(Testimony of Captain Olaf Lie.)

Q. Now, just kindly draw a course south 65 east from the point you were on, and from the course you sailed past Point Reyes. Take it off here and run it down.     A. South 65 east?

Q. South 65 east, yes.

A. Yes. (The witness draws.)

Q. Now, Captain, kindly measure for me the distance that that course is south from the lightship?

A. South from the lightship?

Q. Yes.     A. One and one-half miles.

Q. Nautical miles, aren't they, always?

A. Yes, sir.

Q. Were you trying to get in Golden Gate by going one and a half miles south of the lightship?

A. No, I was not trying to get in the Golden Gate; I was going to get the pilot by the lightship. But I want to say also that I had a chart, a British, [201—81] Admiralty chart, on which the scale was a little smaller than this, and when I shaped the course I shaped the course south 65 east for the lightship, which would take me on that chart a little to the southward of it, but I did not measure exactly the distance at that time.

Q. You did not have this chart on your vessel then?

A. No, sir.

Q. What is that British Admiralty chart, what is the number of the chart?

A. I don't know exactly what number it was.

Q. Have you procured one since you came in here?

A. No, sir, I have not. This is the chart I laid it off on on shore.



(Testimony of Captain Olaf Lie.)

Q. When you came on shore? A. Yes, sir.

Q. That is to say, the day after?

A. Yes; this chart I used when I came ashore.

Q. That was the day after you arrived?

A. Yes, the day after—it was the day after, yes.

Q. That is when you made up your log, was it not?

A. I did not have the chart when I made up the log.

Q. It was on that day?

A. That I bought the chart.

Q. So it was this chart that you testified to when you went before the United States Inspectors—

A. I did not testify—

Q. Wait a moment, Captain.

Mr. McCLANAHAN.—Let him finish his question, Captain.

Mr. DENMAN.—Q. It was on the examination made on this chart that you testified to when you went before the United States Inspectors?

A. No, sir, I testified just to my mind on that day, I did not have—

Q. But you had examined this chart?

Mr. McCLANAHAN.—Let the captain finish his answer. [202—82]

Q. What was it you were going to say, Captain?

A. I did not have that chart in my mind because I did not draw the course on this chart, south 65 east, further than up to the collision, because I did not reach any further, and I did not know how far it would take it off on this chart.

Mr. DENMAN.—Q. Now, sit down, Captain. I

(Testimony of Captain Olaf Lie.)

think that is all for the present on the chart. You say that ultimately that proved to be the "Beaver," didn't you? That whistle that you heard at 3 o'clock proved to be the "Beaver" ultimately?

A. Yes, sir.

Q. I am now taking the very farthest distance, the farthest distance under your theory, that the "Beaver" could have been from you at that time—how far was it? A. 4.83 knots.

Q. 4.83 knots. A. That is to say, at 3 o'clock.

Q. So that at that time when you thought this whistle might be a sound 20 miles away and dead ahead, it was as a matter of fact the sound of a whistle only 4.8 miles away, and coming on a course considerably off your bow and on your port bow? That is correct, is it not?

A. It was a little on our port bow, yes.

Q. How much on the port bow?

A. About 14 or 15 degrees, it proved to be, after I located it on the chart.

Q. How much is 14 or 15 degrees?

A. That is a point and a quarter.

Q. So at the time you thought it was dead ahead, it was really a point and a quarter on your port bow?

A. Yes, sir.

Q. You did not make up your mind until 10 minutes after 3, as I understand—

A. (Intg.) I did not make up my mind what the bearing was absolutely at that moment, but I said the bearing was a little on the port bow, after the first bearing, but that [203—83] only strengthened my

(Testimony of Captain Olaf Lie.)

thought that it must have been some time before I commenced to time it,—the first whistle sounded to me practically right ahead, and the second whistle only confirmed it, although it sounded a little bit on the port bow, and it confirmed my thought.

Q. I see. When did you make up your mind that it was a steamer approaching? A. At 3:10.

Q. Up to that time you did not know whether it was a steamer's whistle in the distance?

A. I was not quite sure.

Q. At 3:10 how far was it from you?

A. 1.54 nautical miles.

Q. So that in the fog then, in the dense fog, you were not able to tell that that was an approaching steamer until it was within a mile and a half of you. That is correct, is it not?

A. I was not quite sure what it was before that, no, sir.

Q. So that then, when she was within, just before she was within a mile and a half, it might have been a whistle 20 miles away of the fog signal station at Golden Gate?

A. The whistle did not then sound as loud by far as Point Reyes whistle sounded when I was abeam, and that was a little over a mile and a half.

Q. Well, you say it was a little over a mile and a half. Now it might have been more than that, might it not? A. What?

Q. The Point Reyes whistle, that it was abeam?

A. No, sir—that is correct; a mile and five-eighths.

Q. A mile and five-eighths.

(Testimony of Captain Olaf Lie.)

A. Yes; that is only one-eighth of a mile, two ship-lengths, more.

Q. What sounding did you have then at 2:50?

A. 29 fathoms. That is, reported to me by the first officer when he came on the [204—84] bridge, he reported 29 fathoms.

Q. At what time did he claim that that was taken?

A. He claimed that that was the last sounding he had; he gave me all the slips; he had 28 fathoms just when we entered the bank, and then had 29 when he came on the bridge.

Q. When he came on the bridge?

A. When he came on the bridge; the 29 fathoms, I don't know who took that.

Q. As I understand it, you had not passed Point Reyes. He had this when he had come on the bridge? A. Yes, sir.

Q. Did you get any more soundings after he came on the bridge?

A. No, I did not get any more except of the second officer reporting to me after he came ashore.

Q. After he came ashore? A. Yes, sir.

Q. So that the soundings, then, that you determined your location, with reference to Point Reyes, were soundings that the first officer brought to you when he came on deck? A. Yes, sir.

Q. What time was it he came on deck?

A. What time he came on deck?

Q. Yes—he came up on the bridge?

A. He came on the bridge a little after 2:50.

Q. A little after 2:50? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. And these soundings—did he have the times of the soundings?

A. He had it on the slips, the time.

Q. Can you tell me exactly what was on those slips?

A. I said that it was 29 fathoms; it was put down to me 29 fathoms when the ship was abeam.

Q. But you did not determine the ship was abeam until after the first officer came up on the deck?  
[205—85]

A. I said to him she was abeam at 2:50. I had taken the bearings and changed the course before he came on deck, before he came up.

Q. That is, you took the bearings and changed the course?

A. And then he came on the bridge, and then I got his slips and went into the chartroom.

Q. Then you changed the course without knowing what the sounding was?

A. I changed the course exactly when we were abeam.

Q. I say you changed the course without knowing what the sounding was?

A. Of course, when I changed it I did not wait to get the sounding.

Q. So that you changed your course without knowing what the sounding was?     A. Yes.

Q. You had not had any soundings for 15 or 20 minutes before that?

A. Yes. The slip was given up to me up to 2:40.

Q. I thought you said the slips were brought up by the first officer?



(Testimony of Captain Olaf Lie.)

A. Some of them. Some of the slips were brought up to me by the quartermaster who was with him,—one of the sailors and one quartermaster.

Q. Now, what slips did you receive prior to this and what hours did they have on and what depths of water?

A. I have told you; I gave you an answer, that when I found out we were on this bank here the sounding showed—

Q. (Intg.) Tell me the slips.

A. I don't remember the slips, how many fathoms of water on it, but I remember that was what the slips showed.

Q. You don't remember the fathoms on them?

A. I remember the fathoms when we were abeam.

Q. Tell me; what did you receive at 2:30? What was on that slip? [206—86]

A. I don't remember the slip.

Q. You have a good memory, Captain.

A. Yes, but I can't remember the soundings in every five minutes.

Q. But this was at the very crux of your trip, this was at the important point of your trip, to find out where you were—this was the important point of your trip, coming into San Francisco, to determine where you were? A. Yes, sir.

Q. And you have a remarkable memory, haven't you? A. I can remember, yes, pretty good.

Q. And the important thing after this collision occurred was to locate that ship for your Veritas reports, so that you would clear your mind up as to the

(Testimony of Captain Olaf Lie.)

details of these various things as to the collision; is that correct?     A. Yes, sir.

Q. Now, I ask you what depth was reported to you at 2:30 on that day?

A. At 2:30 I expect I had the bearing of the light.

Q. You got that yourself, didn't you?

A. Yes, but at 2:35 I got 28 fathoms.

Q. You got 28 fathoms at 2:35?     A. Yes.

Q. What did you get at 2:40?

A. I don't remember that.

Q. You don't remember what you got at 2:40?

A. No, I don't remember.

Q. What did you get at 2:45?

A. I don't remember the exact depth then, either.

Q. Well—

A. 29 fathoms was given to me when we were abeam.

Q. Given to you when you were abeam. You don't remember whether it was taken at 2:45.

A. But you must remember I had the bearing of the light—

Q. I am not talking about that. You don't know what—

Mr. McCLANAHAN.—Let him finish his answer.  
[207—87]

Mr. DENMAN.—Q. I say, you don't remember what depth of water you had at 2:45. Do you or do you not?     A. I don't remember now.

Q. All right.

Mr. McCLANAHAN.—Let him finish his answer now.

(Testimony of Captain Olaf Lie.)

Q. What were you going to say, Captain?

A. I want to say that I do not remember all these soundings because I went into the chartroom and laid off the soundings and found out we were about a mile and a half on that chart off Point Reyes, about, and therefore I did not think more of those soundings, because I found them to be on the bank, just on the edge of that bank, and that is all I thought about.

Mr. DENMAN.—Q. Now, what sounding was reported to you at 3 o'clock?

A. There was no sounding reported to me at 3 o'clock.

Q. So at 3 o'clock you don't know what the sounding was?     A. No, sir.

Q. You don't know what your sounding was at 2:55, either, do you?     A. No, sir.

Q. Do you know what your sounding was at 3:05?

A. No, I do not know the exact sounding.

Q. You testified yesterday that you kept your soundings up to 3:10; is that correct?

A. Yes, sir.

Q. You don't know what they are?

A. I did not care much about the soundings after I ascertained the position to be about a mile and a half; the sounding was not necessary for to shape the course then, but I did not discontinue the soundings yet. I have not given an order to discontinue the soundings.

Q. But you were continuing to do that.

A. But I didn't see the use. [208—88]

Q. Suppose the soundings from 2:50 to 3:10 were

(Testimony of Captain Olaf Lie.)

35 fathoms, and each sounding was 35 fathoms, what would that indicate with regard to the course of your vessel?

A. That would indicate that we perhaps, if he said it was 35 fathoms all the time, might be an eighth of a mile farther out.

Q. Now, can you trace any course on there from the point you have marked as the point of collision that will run from 2:55 until 3:15—

A. I have not—

Q. Wait a minute—at 35 fathoms of water?

A. Not to that point (pointing)—it might be that it was further south, that is all, because you do not get on a ship exactly the soundings that is indicated on there—

Q. I am not asking you about that.

A. As I said, I ascertained the position about so much off there (pointing), and the position of the collision asbis  $2\frac{1}{2}$  miles off Point Reyes in a south southeast direction, within a ship-length or so, at the utmost—and that is a good ascertainment, I should say.

Q. Now, let me ask you with regard to these soundings reported to you. What do they report to you when you get soundings from the Lord Kelvin instrument? What do you get, the depth of water under the vessel? A. I get the depth of water, yes.

Q. That is the actual depth that is shown on Lord Kelvin's instrument at that time? A. Yes, sir.

Q. Is there any place where you can run for 20 minutes at 35 fathoms and get it constantly, and land

(Testimony of Captain Olaf Lie.)

where you claim the collision was?

A. It may be out there.

Q. Is there any place on that chart?

A. It is hard to say. If you can place the sounding— [209—89]

Q. I am asking you.

A. I would explain that the sounding is taken on this chart—within one-half a mile it might be 35 fathoms, between 36 and 34, but it is not so exact; if we land on 35 fathoms we would get 35 fathoms there and a ship length away we might get 40.

Q. Is there any place on that chart where you can draw a course showing 35 fathoms at 3 o'clock on a course south 65 east—that would be north 35 west?

A. May be there (pointing). That may be 35 fathoms on that.

Q. It may be 35 fathoms. That is the 30 fathom mark. A. That is 35 outside.

Q. 34 outside.

A. It does not say—it may be 35 inside of it; it may be, because I am so used to taking soundings that I have many times got that.

Q. Then these soundings you were relying on to locate your position may have been incorrect?

A. Are accurate.

Q. The chart you relied upon might have been incorrect?

A. No; we might not have dropped our lead on that figure (pointing).

Mr. McCLANAHAN.—Q. What figure are you pointing to?



(Testimony of Captain Olaf Lie.)

A. To 34. We might not have dropped the lead on that figure. The bottom may be going that way; the bottom is not even, you know, so that you might get 32 fathoms there, and then get 34 there and then get 36 there (pointing).

Q. But this is in the same direction. You do not find any case where on this chart—where it is 34 and then 32 and 36, do you between one another?

A. The position is out so—

Q. (Intg.) Answer the question.

A. I cannot say now absolutely.

Q. You can see the chart in front of you. Is there any such position [210—90] as that on the chart, the condition of soundings?

A. Yes, within a quarter of a mile.

Q. Where you have a sounding at first a deep sounding and then a shallow sounding?

A. If you should take soundings corresponding with this chart you might find your course to be this way (pointing). But we have got to take the soundings and lay them down, because we never get the soundings on the chart to correspond exactly with these, because—

Q. (Intg.) How can you tell in the fog whether it corresponds exactly with that?

A. Because I can see if I am outside or inside 35 fathoms—because that means 5 fathoms—

Q. (Intg.) If at 3 o'clock you got a sounding of 35 fathoms, you must have been outside—

A. (Intg.) The bearing—

Q. (Intg.) Listen to me. You must have been

(Testimony of Captain Olaf Lie.)

outside the 30 fathom mark, must you not?

A. Well, if he said 35 fathoms at 3 o'clock, it must have been outside.

Q. If he said he had 35 fathoms at 2:45, Captain, where would that put you?

A. 35 fathoms at 2:45, I could not say where it put me.

Q. Suppose he said 35 fathoms at 2:50, would that correspond with the results you have on the map?

A. Not exactly.

Q. It would be a good ways off, would it not?

A. No. But I want to state that my position off that light is also corresponding with the soundings up to 2:50, and also the bearings taken of the light at 2:30.

Q. Don't you know as a matter of fact that your officer who was taking the soundings at 2:45, 2:50, 2:55, 3:00 and 3:05— [211—91]

A. (Intg.) I did not pay any attention after 3:15.

Mr. McCLANAHAN.—Q. After 2:50 you mean?

A. After 2:50, yes.

Mr. DENMAN.—Q. Don't you know, as a matter of fact, that the officer that took your soundings at 2:45, 2:50, 2:55, 3:00, 3:05 and 3:10 swore at the taking of the testimony in your presence that he got 35 fathoms at each one of those times?

A. He did not—

Q. Five minute periods?

A. He did not report the soundings to me.

Q. I am asking you if he did not swear to that in your presence when the depositions were taken in

(Testimony of Captain Olaf Lie.)

Mr. McClanahan's office?

A. I don't remember if he said he took the soundings at 2:45.

Q. You were in the room when his testimony was given, were you not, in Mr. McClanahan's office, when the testimony was given? A. Yes, sir.

Q. And you were then the libelant in this case, were you not? A. Yes, sir.

Q. And suing in this case, were you not?

A. Yes, sir.

Q. And you and Mr. McClanahan were together there conducting the case, were you not?

A. Yes, sir.

Q. Now, do you remember that your witness that had charge of the soundings reported and swore at that time that he had taken soundings at 2:45, and took the soundings each five minutes thereafter, and that each sounding was 35 fathoms?

A. I do not remember if he said at 2:45, because the chief officer was there—he was relieved at 2:45, the chief officer was.

Q. The chief officer brought you the soundings at 2:50 you said?

A. Yes—just a few minutes after 2:50 he brought me [212—92] them and I went into the chart-room.

Q. As a matter of fact, don't you recollect your officer in charge of the soundings at 2:45 and 2:50 swore that the soundings at that time were 35 fathoms? A. Well, I heard he said he had 35 fathoms.

Q. You heard him say that?

A. I heard him say he had 35 fathoms. I don't

(Testimony of Captain Olaf Lie.)

know whether he said 35 fathoms at 2:45; he said 35 fathoms.

Q. At what time?

A. He said he had 35 fathoms—he gave you 35 fathoms when the collision was.

Q. Do you recollect what he said on the occasion of the taking of his testimony in Mr. McClanahan's office—do you remember what he said?

A. Well, I remember he said 35 fathoms.

Q. Let me call your attention to the testimony.

A. Yes, sir.

Q. What was the name of the officer that took charge of the soundings after the first officer came to you? A. Larsen.

Q. Now, Captain, you have just testified that you recollect that you heard Larsen testify as to the soundings he took? A. Yes, sir.

Q. I call your attention to the following testimony:

“Q. Where is that sounding machine located on your ship? A. On the poop.

Q. On the poop a little on the starboard side?

A. Yes; it is about amidships.

Q. Did you take any soundings after you got to the machine?

A. Yes; I commenced a quarter to 3 to take soundings every five minutes. [213—93]

Q. Who was there with you at the time?

A. There was two sailors.

Q. What were they doing?

A. They were pulling in the lead.

Q. What depth of water did you find while

(Testimony of Captain Olaf Lie.)

you were sounding? A. Always 35.

Q. 35 what? A. Fathoms.

Q. How long did you continue to take soundings? A. The last one I had was 3:10.

Q. Do you know what the course of the ship was at that time? A. No sir.

Q. Do you know what the speed of the ship was at that time?

A. No, I did not look."

Do you remember that testimony, Captain?

A. Yes, sir.

Q. That is entirely inconsistent with the theory that you took the sounding of 28 at 2:50, isn't it?

A. I did not say 28 at 2:50; I said 29.

Q. 29 at 2:50. Now, if that was so, 35 at 2:50, it could not have been 29, could it? A. No, sir.

Q. It is entirely inconsistent with your statement that it was 29, isn't it?

A. That is given to me by the first officer.

Q. I am talking about the testimony of the man that took the sounding. That is entirely inconsistent with your statement that it was 29, is it not?

A. Well—

Q. (Intg.) It is inconsistent, is it not, Captain? Yes or no? A. It does not correspond, no.

Q. You were in the room when that testimony was given, were you not? A. Yes, sir.

Q. And within four or five feet of the witness, were you not? A. Yes, sir. [214—94]

Q. That testimony was taken in the morning, was it not, and the examination went on in the afternoon,



(Testimony of Captain Olaf Lie.)

did it not?     A. Yes, sir.

Q. Now, let me ask you with regard to your knowledge of the rules, as an expert, Captain, did you consider that proceeding on the regular passageway of vessels through the Golden Gate north around Point Reyes, with a dense fog, and the atmosphere in such a condition that you could not tell whether a steamer's whistle is a steamer's whistle a mile and a half away or the whistle of a fog horn 20 miles away, that six knots is a proper rate of speed to send your vessel ahead on?

Mr. McCLANAHAN.—I object to that on the ground that the hypothesis is not properly stated; the light is not shown to have been 20 miles away when the "Beaver" was one and a half miles away.

Mr. DENMAN.—Q. Considering the question altered so that the whistle of the lighthouse is 18 miles instead of 20 miles away. Now, with the fog in that condition, and on the fairway of vessels, and a dense fog,—dense and thick fog—do you consider that six knots an hour is a proper speed at which to navigate your vessel?

A. I thought that six knots was moderate speed under the circumstances I had.

Q. Have I properly described the circumstances?

A. I have.

Q. Have I properly described them in my question? It was true, was it not, that you could not tell until you were within a mile and a half of the "Beaver" that it was the "Beaver" or it was a steamship—you could not tell until you got within a mile and a  
[215—95] half that it was.

(Testimony of Captain Olaf Lie.)

A. When I was a mile and a half I knew it was a steamer.

Q. Until that time you could not tell; that is your testimony? A. Yes, sir.

Q. And you did not know at that time until you were within a mile and a half of her—you did not know whether it was a steamer's whistle or the whistle of a lighthouse 20 miles away, or 18 miles away; that is correct, isn't it?

A. It just came into my mind.

Q. You could not tell whether it was one or the other up to that time; that is correct? A. Yes, sir.

Q. With the atmosphere in that condition and the sounds being conveyed in that way, and in the fair-way of vessels sailing up and down the coast, do you think that six knots an hour was the proper speed at which to send your vessel ahead?

A. I proceeded at six knots up to 3:05, but then I reduced it to three knots, about three knots.

Q. I am asking you my first question.

Mr. McCLANAHAN.—But your first question is not properly hypothecated.

Mr. DENMAN.—I am asking him my question. When you get him on redirect examination you can ask him about it.

Mr. McCLANAHAN.—But you say the vessel was going at six knots at 3:10; that is an improper assumption. Then the distance away was incorrect.

Mr. DENMAN.—What I said was, when the atmosphere was in a condition where he could not tell, when the vessel was a mile and a half away, whether

(Testimony of Captain Olaf Lie.)

or not the whistle that he heard was from [216—96] that vessel or from something 18 miles away; that is the condition of the atmosphere—however, the atmosphere did not change between 3 and 3:10, did it?

The WITNESS.—No, about the same.

Mr. DENMAN.—Q. Now, do you think that six knots speed is a proper speed on a fairway of vessels under those conditions?

Mr. McCLANAHAN.—I object to that question on the ground that there is nothing in the evidence to show that the speed of the “Selja” was six knots at that time.

A. I consider six knots to be moderate up to 3:05.

Mr. DENMAN.—Q. 3:05. And the conditions were as I have described them? A. Yes, sir.

Q. Now, as I understand it, you maintained your steerageway aft until 3:14, didn't you?

A. About that; I did not look at the clock exactly.

Q. So that at 3:13 you still had, steerage way, didn't you? A. Yes, sir.

Q. What speed were you going at 3:13, according to your theory?

A. Oh, at 3:13 I should say she was going about a knot and a half, perhaps.

Q. So that you had steerageway of a knot and a half at that time? A. Yes, sir.

Q. At 3:14 you say she was nearly at a standstill?

A. Well, she was not exactly at a standstill; she was—I thought then to answer the “Beaver's” next whistle with two—

Q. (Intg.) I am asking you now at 3:14—fix the

(Testimony of Captain Olaf Lie.)

time. Now, at 3:14 she was nearly at a standstill, but not quite?

A. Not quite. I could not say she was not moving a little.

Q. She was nearly at a standstill? A. Yes.

Q. At that time? A. Yes. [217—97]

Q. You want to swear to that, do you?

A. Yes, I swear to it; I have said it.

Q. You do not make any distinction, then, between the statements you make under oath and the statements you swear to, do you?

A. I am under oath; everything I say is supposed to be the truth.

Q. I am not talking about that. Suppose you were not under oath?

A. I would say the same thing.

Q. Then, if you said she was nearly at a standstill at 3:10 when you were not under oath, it was just as good a statement as she was nearly at a standstill at 3:14. That is correct, isn't it? A. The log—

Q. (Intg.) Is that correct?

Mr. McCLANAHAN.—Let the witness answer the question. He does not get a word out before you press him to answer the question.

A. The log shows—

Mr. DENMAN.—Q. I am not asking what the log shows. The fact that you are under oath now, when you said that it was nearly at a standstill at 3:14, is not of any more value because you are under oath than a statement you made not under oath that she was at a standstill at 3:10—there is no difference on

(Testimony of Captain Olaf Lie.)

account of that? A. No, sir.

Q. There is no difference on that account?

A. No, sir.

Q. Now, at what speed were you under at 3:10?

A. She was then making about three knots.

Q. Now, as a matter of fact, Captain, didn't you swear when you were before the Consul and making your statement for your home government that at the hour of 3:10 she was making four knots? [218—98] A. Yes, but now let me explain.

Q. Wait a minute.

Mr. McCLANAHAN.—Let him explain.

Mr. DENMAN.—Q. You did state that?

A. Yes.

Mr. McCLANAHAN.—He has said yes; now let him explain.

A. The explanation is that when I said four minutes I really took in mind that she was going six knots at 3:05, and at 3:10 she was going 3, and the average speed would be about four knots, between those five minutes. That is what came into my mind at that moment. I said four knots, but I know this, that the revolutions would show she could not have gone four knots at 3:10.

Q. I do not know anything about the revolutions, neither do you know about the revolutions, because you were not in charge of the engines, and all you know about the engines is hearsay. I am asking for your own knowledge. As I understand it, at 3:05 she was going at six knots, was she not?

A. Yes, sir.

Q. At that time you dropped, according to your



(Testimony of Captain Olaf Lie.)

story—that is, according to one of your stories, you dropped a revolution so that she went down to slow speed? A. Yes, sir.

Q. At 3:05? A. Yes, sir.

Q. Now she had an impetus of six knots, didn't she, at 3:05? A. Yes, sir.

Q. She had a push of three knots in her engines, didn't she? A. Yes, sir.

Q. From 3:05 on? A. Yes, sir.

Q. Now, how long would she carry the impetus of the six knots speed?

A. About a minute or a minute and a half.

Q. About a minute or a minute and a half?

A. Yes, sir.

Q. How long would she carry the impetus of the three knots [219—99] speed?

A. She would carry that as long as she was going three knots.

Q. Why is it, Captain, that you said she would drop the six knots impetus in a minute and a half and she would hold the three knots impetus for five minutes?

A. That is not to say she would drop it exactly; she would gradually decrease, gradually. I did not say drop exactly.

Q. You said a minute and a half—she would gradually decreased.

A. She would gradually decrease until she would get down to her three knots. I said she would maintain her six knots probably for a minute and a half.

Q. Allright. You were going then at the rate of

(Testimony of Captain Olaf Lie.)

six knots from 3 o'clock until 6½ minutes past 3; is that correct?     A. About that.

Q. All right.     A. I mean about that.

Q. Then she began to drop her speed, did she?

A. Yes.

Q. How soon would she drop from six knots that she was going at 6½ minutes past 3 down to the push of three knots?

A. I could not say exactly, I would say she would drop down to that speed in about four minutes; she would be down to that speed in four minutes or three and a half minutes.

Q. In three and a half or four minutes?

A. Yes, sir.

Q. When you said that the speed that she was maintaining at 3:10 was four knots, that is under oath before the Consul, you were mistaken as to that, were you?

A. I did not know that I said four knots, but I had that in mind and the four knots might have slipped out of my mouth.

Q. I know, but you did not send the statement on home for a long time, did you? [220—100]

A. I did not see the statement at all. I did not know anything about it.

Q. Never saw it again?

A. Yes; I saw it here this year.

Q. How long ago did you see it?

A. Last January, I think it was; I think so.

Q. Did you make any corrections or suggest any corrections?

(Testimony of Captain Olaf Lie.)

A. Absolutely not; I have no right to make any corrections.

Q. You have not, when you make a mistake?

A. No, I would not do that—it was only one mistake that I think of, that is, the four knots.

Q. So that you think you dropped your speed entirely from 3:05, dropped the six knots speed entirely, so that she was running at 3 knots by 3:09. Is that correct?     A. That is, about that.

Q. Why then, did you testify before the United States Inspectors that at 3:10 you were going between three and four knots?

A. Well, I could not say exactly; it is as near—I said about three knots; about three knots. It may be that I said three or maybe three and a half—I said about three, and now that I have said four, the one-half is not much out—it is about three or three and a half knots—it is practically the same. It would not make any difference in five minutes in any case.

Q. Why then did you state in your written log that at 3:10 she was nearly at a standstill?

A. The log was made out by the chief officer, and I signed it, but I never took much notice of that standstill; the standstill is properly in the log; it is true she was nearly at a standstill between 3:10 and 3:15.

Q. Now I will read you the log: “At 3 o’clock we heard a deep steam [221—101] whistle ahead quite faint and from then on heard it about every minute; we answered with the same interval.” Is

(Testimony of Captain Olaf Lie.)

that statement true?     A. Yes, sir.

Q. Did you hear it every minute after 3 o'clock?

Mr. McCLANAHAN.—He said about.

A. We heard it about every 55 seconds.

Mr. DENMAN.—Q. I thought you did not determine that until 3:05.

A. Well, I said about. I do not see anything in that log that I commenced to time it at 3:05. It was about every minute.

Q. "At 3:05 P. M. ordered slow speed, as we heard the whistle nearing, and at 3:10 stopped the engine, the vessel being then nearly at a standstill." That is correct, isn't it, that statement here?

A. Well, probably that is about the translation of it. That is not exactly the Norwegian wording of it.

Q. What is the Norwegian wording of it, Captain. We have a Norwegian copy of it, that is in evidence, haven't we?     A. Yes, sir.

Q. That is correct in the Norwegian copy that is in evidence?     A. Yes, it is correct.

Q. Then you did sign a statement here in which you stated at 3:10 she was nearly at a standstill?

A. Yes, sir.

Q. You did sign that statement?     A. Yes, sir.

Q. Now then again, about a week afterwards, you signed it again, did you not?     A. Yes, sir.

Q. And between those two times the question of the speed that you were making at 3:10 came up before the United States Inspectors, did it not?

A. I think it did. [222—102]

Q. Between those two times?     A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. And you signed it the second time, in which you still had the statement at 3:10 you were nearly at a standstill; that is correct, isn't it?

A. Well, I see it is.

Q. That before the Norwegian Consul you swore that your speed at 3:10 was four knots, don't you?

A. I said four knots, yes.

Q. Under oath, didn't you?      A. Yes, sir.

Q. And now you say that is was three knots, at 3:10?      A. About three knots, I say.

Q. Now you say that instead of being nearly at a standstill at 3:10, she was nearly at a standstill at 3:14, is that correct?

A. Well, I said she was not at rest yet.

Q. At 3:10 she was nearly at a standstill; that is your statement?

A. A ship like that would carry her headway very long, and I did not want to blow the two whistles—

Q. (Intg.) I am not asking you about the two whistles.      A. Before she was at rest.

Q. Just answer my question. You will have plenty of time when your counsel gets you to straighten this all out, if it can be straightened out by counsel on redirect examination.

Mr. McCLANAHAN.—I do not think it needs straightening out. That is what he has testified to.

Mr. DENMAN.—I think it will have to be straightened out, if it can.

Mr. McCLANAHAN.—We look at it from different standpoints. I will not waste much time on redirect examination on this proposition.



(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Q. Now, Captain, let me ask you: How did you figure [223—103] the distance between 3 o'clock and 3:15 as being one knot, which you traveled?

Mr. McCLANAHAN.—The "Selja's" speed, the distance that she traveled—

Mr. DENMAN.—Q. I will give you a piece of paper and let you figure that, because I would like to have it. A. Yes, from 3 to 3:05—

Mr. McCLANAHAN.—Q. Answer the question, can you?

A. Yes. From 3 to 3:05,—I will get that in—I will now figure that out and hand it to you. (The witness figures.) I take her average speed as four knots between 3 and 3:05.

Mr. DENMAN.—Q. Why do you make it four knots?

A. Well, because I only take a kind of medium of it, and call it four knots.

Q. I know; but if it would be averaged, it would be four and a half, wouldn't it?

A. It would not be quite an average.

Q. All right.

A. You see the curve is not straight.

Q. I know the curve is not straight.

A. I take the average feet, which would be about 2025, about that.

Q. How do you get that?

A. Four knots; that means about 405 feet per minute; that is, 405 feet per minute, about.

Q. Now you have testified here that in the first

(Testimony of Captain Olaf Lie.)

minute and a half she would still hold her six knots speed that is correct, is it not? A. Yes, sir.

Q. All right. Then make that 3 to 3:06½.

A. No. I take that from 3:05 that is a medium of that up to 3:05. This is from 3 to 3:05. Then from 3:05 I take the medium of that.

Q. All right.

A. From 3:10 I stated she would travel about 1015 feet; that is what I put down,—3:10 to 3:15. [224—104]

Q. Now figure out from 3 to 3:05 on there, if you will, please, Captain, 3 to 3:05—just put down here 3:00 to 3:05. A. 3 to 3:05.

Q. 6 knots. A. 6 knots.

Q. 3040 feet. A. 3040 feet; that is correct.

Q. 3:05 to 3:06½, at 6 knots; what would that figure? A. I did not figure that way.

Q. Well, I am figuring that way now. You can figure my way, if you please, you are an expert.

A. I will figure that and see how much that will be. 6 knots is,—it is about 3950 feet—about 3952 feet.

Q. How many feet? A. 3952 feet, about.

Q. No, no; that is not right. You have only given the minute and a half.

A. That is a minute and a half, 608 feet per minute.

Q. A minute and a half would be what?

A. 3952 feet.

Q. That is, you are giving it from 3:00 to 3:06½?

A. Yes, sir.

Q. Just put your speed in there.

(Testimony of Captain Olaf Lie.)

A. That is it. That is from 3:00 to 3:06½.

Q. Now give me the distance that you would cover between 3:05 and 3:06½—it would be 912.6, would it not? A. Yes.

Q. Add those two figures. A. It is 912.6.

Q. Just put that in your column here, put it in here (pointing). A. Yes, sir.

Q. Now, you have testified at 3:06½ she would still be going at 6 knots; that is correct, isn't it, in your opinion?

A. That is my opinion. I could not say exactly.

Q. But if she were going, if that is your opinion, at six knots [225—105] at 3:06½, what would be her speed between 3:06½ and 3:10, with the push of her machinery at 20 revolutions?

A. Well, the only thing I can say—

Q. (Intg.) I am not asking you that.

Mr. McCLANAHAN.—Let him answer the question.

A. (Contg.) That these questions are answered practically, not exactly, theoretically, because it is very difficult to answer them theoretically. This is taking the medium of the distance which I know is not a half a ship length out.

Mr. DENMAN.—Q. I am very glad to hear that. But you are a theoretical man and I am therefore asking you, on that ground; you have qualified as an expert. I want you to follow your theories out.

A. I have done so.

Q. You say at 3:06½ she would still have a six knots speed, don't you?

(Testimony of Captain Olaf Lie.)

A. Yes, sir,—I said she probably would.

Q. You still think so, don't you? A. Yes, sir.

Q. Then you agree with me that up to 3:06½ this distance was covered, don't you (pointing)?

A. Yes, sir.

Q. That distance is 3952 feet. A. Yes, sir.

Q. At 3:06½, and she was then going six knots. Now what did she go if she was going at six knots at 3:06½, what distance would she cover between that time and 3:10, with the engines pushing her at the rate of 20 revolutions?

A. Well, I could not say more exactly than I stated at 3:06½. The distance I stated from 3:05, to 3:10, I stated, as near as can be, 2025 feet.

Q. I am not now asking for your theory. I am asking you to follow out my theory. I have got a right to have theories just as you [226—106] have, and I have got a right to base theories on your testimony, and when you tell me that at 3:06½, in your opinion, she was going six knots, I have a right to follow that down to the end, until you withdraw it, the statement that she was going 6 knots at 3:06½.

A. I do not withdraw anything. I said I thought so.

Q. You were there, of course. A. Yes, sir.

Q. You were looking over the side now and then, weren't you?

A. Yes, but you cannot say exactly what her speed is by looking over the side, except you log it.

Q. You cannot.

A. No. I said about. I have never said that she

(Testimony of Captain Olaf Lie.)

was going exactly at any rate; I said about. The distance run from 3:00 to 3:15 is about 100 feet more.

Q. But she was going at a speed of six knots at 3:06½, and she began to fall off at the same time, didn't she, under your theory?

A. Yes, sir, she would fall off.

Q. How soon would she lose her six knots speed?

A. Well, I don't know.

Q. After 3:06½?

A. She may be down to, perhaps, her speed in three or four minutes. I could not say exactly as to that.

Q. Just take it three minutes then after 3:06½.

A. If I take this as 3 that will be 450; 3½ that will be—I can figure it that way, if you want to—three times that—that will be 2400 feet.

Q. 2400 feet, between 3:06½ and 3:09½?

A. About 1350 feet up to 3 knots—I did not go down—

Q. (Intg.) Wait a minute.

Mr. McCLANAHAN.—Why don't you let the witness answer? [227—107]

Mr. DENMAN.—He makes his answer. He is a quick-minded man. I am quite clear-minded too, but I may not be so quick-minded, and both of us are chasing one another on this thing.

Q. Now, Captain, what do you make the distance between 3:06½—

A. (Intg.) The distance I made out—

Q. (Intg.) Wait a minute, Captain—the distance between 3:06½ and 3 minutes after that, when you had lost the impetus of your 6 knot speed, what do



(Testimony of Captain Olaf Lie.)

you make the distance, according to your calculation?

A. The only way I took that—

Q. (Intg.) What do you make the distance, according to your calculation, the total distance?

A. About 2400 feet, approximately.

Q. That would be then the distance between 3:06½ and 3:09½?

A. No, that is from 3:05—that is taken from 3:05.

Q. I am asking you now the distance—

A. (Intg.) That is it; that would be—

Q. (Intg.) Let me get through. I am now asking you the distance covered by the vessel between 3:06½ and 3:09½, during the three minutes in which you say she would lose her six knots speed.

A. I did not say she would lose it by 3:09.

Q. That she would lose her six knots speed and drop down to three knots; give me the distance.

A. I will take it approximately four knots, because I could not say exactly—400 feet—how long was it, from 3:06½?

Q. You said in three minutes.

Mr. McCLANAHAN.—Q. Give him the answer, Captain.

A. Three minutes—about 1200 feet, approximately, she would travel.

Mr. DENMAN.—Q. She would travel 1200 feet. All right. I have got it after [228—108] all this time. We have now gotten her speed between the distances, about.

Mr. McCLANAHAN.—That is your theory.

The WITNESS.—That is your theory.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—You will see whether it is my theory, or whether it is the logical following out of your theory.

Q. Now, we have got the distance as estimated by you between 3:06½ and 3:09½, presuming that she was traveling at the rate of six knots at 3:06½, about 1200 feet. That is correct?

A. In three minutes, 1200 feet, yes.

Q. And at the end of three minutes, in your opinion, she would have lost the push of her six knot momentum? A. I think so.

Q. And she would be down to her three knot momentum? A. Yes, sir.

Q. Now, in your opinion,—that is, in your present opinion, she was going three knots at 3:10; that is correct, isn't it? A. About that.

Q. And she was going that or she was almost at a standstill then?

A. She was going at three knots.

Q. And how long would it take her, then, to drop that three knot speed, according to your theory?

A. I think she would drop that—I think she would be done—that is what I think; I cannot say exactly what time she would absolutely be done, but I think she would be done in about five or six minutes.

Q. Five or six minutes?

A. Five or six minutes.

Q. About 5 minutes; that is what you stated?

A. Yes.

Q. Now, Captain, in that 5 minutes she would travel 1015 [229—109] feet, would she not?

(Testimony of Captain Olaf Lie.)

A. About that.

Q. Let us make a calculation; according to your last theory you have 3040.

A. No—I have got three knots.

Q. Let us summarize your entire testimony. Now you said that from 3 to 3:05, she would go 3040 feet, would she not? A. Yes—hold on.

Q. And that from 3:05 until 3:06½ she would go 912 feet, would she not? A. Yes, sir.

Q. And from 3:06½ to 3:09½ she would cover 2400 feet, would she not—1200 feet? A. 1200 feet.

Q. And then in the half minute between 3:09½ and 3:10 she would cover what?

A. That would be 50 feet.

Q. 50 feet?

A. Three knots, that would be 300—no, it would be 150 feet.

Q. Put in 150 feet. A. That is half a minute.

Q. 150 feet; is that correct? A. Yes, sir.

Q. Now, that is what she has covered up to 3:10, isn't it? A. Yes, sir.

Q. Then between 3:10 and 3:15 she would cover 1015 feet, about? A. About.

Q. That is your figure here.

A. But I will say that she was done then; I got to say she is done; well, I will give her 900.

Q. You gave her 1010 up here (pointing).

A. Yes. I will give her more. I just gave her that because I do not want to have the distance too short.

Q. You think that is a fair estimate, don't you?

(Testimony of Captain Olaf Lie.)

A. Yes; I think so.

Q. We will let it stand at 1015—isn't that taking your own [230—110] figures.

A. No. I would not take that as my own figure because you have to base it on that she is at rest at 3:15, and that would be about 750 feet, and the—

Q. (Intg.) One moment, Captain. I understand you to say that at 3:10 she was going three knots, didn't I? A. Yes, sir.

Q. And that you estimated here that between 3:10 and 3:15 she travelled 1015 feet.

A. That is what I gave.

Q. That is what you swore to yesterday, is it not?

A. Yes, I swore to this, too.

Q. I am not talking about that; I am talking about your figure now. A. Yes.

Q. You made a separate figure for from 3:10 to 3:15? A. Yes, sir.

Q. And you swore that between that time she went 1015 feet? A. I did not say exactly.

Q. But your estimate was that? A. Yes, sir.

Q. You estimated that carefully, didn't you?

A. This is not estimated absolutely carefully, because we did not do it carefully enough.

Q. What do you think you covered between that time?

A. I think she covered between 900 and 1000 feet—about 900 or 1000 feet.

Q. You said yesterday, and the statement you gave in court yesterday was 1015 feet.

(Testimony of Captain Olaf Lie.)

A. Yes. Put that down, that is all right. I do not care.

Q. Put it in here, 1015 feet.

A. Well, we must have that clear—

Q. (Intg.) Hold on.

A. No, that is all right; we will be all bankrupt before we leave. [231—111]

Q. We will find out who will be bankrupt when we get through with the case.

A. I did not mean you—I cannot figure that way.

Q. 1015.

A. That is 6317 feet. That is 237 feet out.

Q. What you mean to say is about 6317 feet?

A. Isn't it?

Q. Yes. A. Yes, I think it is correct.

Q. That is the distance that you travelled according to your latest estimate between 3 o'clock and the time of the collision, is it?

A. Well, but I cannot measure that on the chart. That is very hard to measure.

Q. But I mean that is so according to these figures?

A. That is according to the figures we figure on now.

Q. The distance you travelled is somewhere between those figures, the figures you gave?

A. Yes, about that.

Q. And all of these estimates I have gotten here are based on your own theories, aren't they?

A. Based on my calculation. It is very hard to find a theoretical matter like this because it has got



(Testimony of Captain Olaf Lie.)

to be taken out of experience.

Q. Well, of course, you never measured the distance so as to have any experience in them in a fog—you never measured by actual measurement what the “Selja” did with that cargo, and with that sea and with those weather conditions.

A. I logged the distance.

Q. I mean you never have measured her distance exactly under those exact conditions before, have you—that is impossible, isn’t it?

A. I have not measured it, but I said that she was travelling one knot from 3 to 3:15, and I found that according to my opinion, one knot. It may be a ship-length or a half a [232—112] ship-length farther, I could not say as to that.

Q. But, as a matter of fact, when you come to actually measure them according to your own theory, it gives 6317 feet; that is correct, is it not?

A. Well, that is the measurement we got here to-day, but I said from the first start I have not figured that way. I said she travelled about one knot.

Q. Captain, I wish you would prepare for in detail as an expert each step in the calculations that you made in determining all the results that you have testified to heretofore; it will probably save me the trouble of going through all this on cross-examination. You have got the results; just prepare a paper showing what the speed of the “Beaver” was at the various times taken in each one of these questions and answers from the transcript of the testimony of Mr. McClanahan, and work out for me each one of those

(Testimony of Captain Olaf Lie.)

problems, giving me all the figures, so that I can have them and put them in the record, and that will avoid all this controversy here.

Mr. McCLANAHAN.—Let us get that clear. The figures you want pertain solely to the “Beaver,” do they not?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Because you have covered the “Selja” up to 3:15?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—The others pertain to the “Beaver”?

Mr. DENMAN.—Yes.

(An adjournment was here taken until Wednesday, June 14th, 1911, at 10 A. M. [233—113])

Wednesday, June 14th, 1911.

Mr. McCLANAHAN.—Unless you are willing to make the admissions as to the draught fore and aft, and corresponding displacement at that draught on the trial trip of the “Beaver,” and the pitch of her propeller, it being 22 feet 3 inches as shown by the builders’ blue-prints which you have just submitted to me, as being correct, I will have to call Mr. Frey again.

Mr. DENMAN.—What do you want to call Mr. Frey for?

Mr. McCLANAHAN.—If you make the admissions I won’t have to call him.

Mr. DENMAN.—What is the purpose of calling him, what do you want to show?

Mr. McCLANAHAN.—I want to prove by him the

(Testimony of Captain Olaf Lie.)

facts that I want.

Mr. DENMAN.—He has already testified he has not any personal knowledge, and all his knowledge is contained in the blue-prints submitted by the builders. We are willing to admit that.

Mr. McCLANAHAN.—Willing to admit what?

Mr. DENMAN.—All of the knowledge is contained in the blue-prints submitted to you from the builders. What further do you want to bring out by him?

Mr. McCLANAHAN.—If you won't admit the facts I will have to cross-examine Mr. Frey on the matter of his knowledge.

Mr. PAGE.—Haven't you already examined him, Mr. McClanahan, and hasn't he said that he has acted upon or in the habit of acting upon it, one way or the other?

Mr. McCLANAHAN.—I have asked Mr. Frey to produce the reports from the builders showing that data.

Mr. DENMAN.—He has sent you that.

Mr. McCLANAHAN.—I will examine him on that unless you make [234—114] the admission of facts as stated on this. What is the use of tying this matter up?

Mr. DENMAN.—We will admit that Mr. Frey will testify that is what appears on these documents, that the documents were given him by the builders, and that he supposes the builders' representations to be true, though he does not know of his own knowledge.

Mr. PAGE.—That is all he can testify to.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Why not admit the truth of it? What is the object of it?

Mr. DENMAN.—We do not know. That is all we can admit.

Mr. McCLANAHAN.—That is all you can admit?

Mr. DENMAN.—Not one of us was present at the time these measurements were made at the time of the trial trip, and no one has knowledge on the subject except what I have given you.

Mr. McCLANAHAN.—Don't you know that Mr. Frey has sworn to data of the "Beaver" on her trial trip?

Mr. DENMAN.—He has sworn that he verily believes it to be true.

Mr. McCLANAHAN.—I want him to swear that this very data is verily true which he got from the same source.

Mr. PAGE.—That is what Mr. Denman has said.

Mr. DENMAN.—If he has a belief it is true, that is not saying it is true, because a man believes it on hearsay evidence.

Mr. McCLANAHAN.—There is no use arguing it.

Mr. PAGE.—Read what Mr. Denman has proposed.

Mr. DENMAN.—If it is not sufficient then I withdraw it and ask directly what you want in the way of testimony from Mr. Frey, and anything that he can testify to we will admit here.

Mr. McCLANAHAN.—I will tell you what I want. I want it admitted that the pitch of the "Beaver's" propeller on the trial trip was [235—115] 22 feet,

(Testimony of Captain Olaf Lie.)

3 inches; that her draught forward at that time was 13 feet 9 inches; her draught aft at that time was 17 feet; that her corresponding displacement was 4400 tons. I want that admission.

Mr. DENMAN.—We will admit that Mr. Frey believes, on hearsay testimony, and from the data in the plans now in the possession of libelant's counsel—that he verily believes that to be true, though he has no knowledge on it other than hearsay of the plans.

Mr. McCLANAHAN.—And that the plans were furnished to the respondent—

Mr. DENMAN.—And that the plans were furnished to the respondent by the contractor who built the ship.

Mr. McCLANAHAN.—By the Newport News Shipbuilding and Drydock Company, the builders of the “Beaver”?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—As the data for the “Beaver” on her trial trip. That is all I want.

Mr. PAGE.—Was furnished as the data of the “Beaver” on her trial trip; that is correct.

Mr. McCLANAHAN.—That is admitted.

Mr. DENMAN.—It is admitted it was furnished by the Newport News Shipbuilding and Drydock Company, to the owners of the “Beaver.”

Mr. McCLANAHAN.—I think that will be sufficient. [236—116]

OLAF LIE, cross-examination resumed.

The WITNESS.—Before we commence to-day, I would like to correct a statement which I made day



(Testimony of Captain Olaf Lie.)

before yesterday, which is not correct. I thought it over and told Mr. McClanahan about it; it is not correct.

Mr. DENMAN.—Yes, Captain.

Mr. McCLANAHAN.—Q. What is the statement, Captain?

A. It is that the “Selja” was keeping her speed for one and a half minutes after her engines were reduced from 40 revolutions to 20 revolutions; you see she would gradually commence to decrease, and common sense will show she could not keep it up one and a half minutes, but under the press of the cross-examination I just said so, and I think it appears in the evidence.

Mr. DENMAN.—Q. Well, now, Captain Lie, I did not ask you that question, did I? You offered it yourself voluntarily under cross-examination, didn't you?

A. I think you asked how long did she keep—how long she would keep the six knots.

Q. Very well, we will examine that. However, I will take that up later on, Captain. Is that all?

A. That is all.

Q. Now, Captain Lie, you gave us a very long account, and apparently very accurate account of the history of your seafaring life from your early boyhood down to date; of course, you know I cannot cross-examine you on that, and that account seems to give evidence of a very remarkable memory. Is there anything in that history of your life that differs from any other sea captain who is constantly at sea

(Testimony of Captain Olaf Lie.)

over the period of years that you were over—what you have described? [237—117]

Mr. McCLANAHAN.—I object to that as immaterial.

A. I do not know if it is exactly anything else except another captain might not go through exactly the same as I went through.

Mr. DENMAN.—Q. All you meant by that long history was you had been to sea practically continuously during that period, excepting you had your vacations and excepting your taking your examinations in the school, that you were continuously at sea pursuing your vocation—that was all that was, was it not? A. Yes, sir.

Q. Do you mean to say that just out of your research into your memory you were able to give all these facts of arrival and departure of yours?

A. Yes, sir.

Q. It was through a long period of years, was it not?

A. I gave some data, not all; I gave what I remembered.

Q. Now, taking up the question of the libel in the freight case, article 7. You say you read that over carefully, and you say it gave an accurate statement of the facts as you then remembered them,—

Mr. McCLANAHAN.—The 7th article, did you say?

Mr. DENMAN.—Q. Article 7 of the freight libel. That is the article in which the captain had an interest, because it described the maneuvers of the ship.

(Testimony of Captain Olaf Lie.)

On line 5, of page 5, I find the following: "At about 3 o'clock P. M. a deep distant whistle was heard in an ascertained position dead ahead of the 'Selja' and apparently a long way off, which afterwards proved to be that of the aforesaid steamship 'Beaver.' " We will stop there. And at line 14—"The whistle of the 'Beaver' was repeated at intervals of about a minute but seemingly nearer, until at about [238—118] 3:05 P. M. the 'Selja's' engines were put at slow speed," etc. Now, you say, Captain, that the whistle was heard in an ascertained position dead ahead of the "Selja." Was the whistle of the "Beaver" at any time on that day in fact dead ahead of the "Selja"?

A. She appeared to me to be right ahead at the first whistle.

Q. Answer my question. Repeat the question to the captain.

(The last question repeated by the reporter.)

Q. In fact.

A. No—if he kept his course as stated in his evidence.

Q. All this computing that you have made as to the speed of his vessel is based upon the course that he gave, is it not?

Mr. McCLANAHAN.—Which vessel?

Mr. DENMAN.—Q. Of the "Beaver."

A. Yes.

Q. So you presume for the purpose of giving his speed that the courses are correct?

A. I presume that is correct.

(Testimony of Captain Olaf Lie.)

Q. Have you any reason to believe that the "Beaver" coming from the Golden Gate and going north would have any reason to be dead ahead on a course direct from Point Reyes to  $21\frac{1}{2}$  miles south of the lightship, when you were on that course—have you any reason that she would be dead ahead of you at any time when coming out of North Channel?

A. We did not steer  $21\frac{1}{2}$  miles off the lightship, to my knowledge.

Q. How far did you steer off it?

A. I did not know at that moment, exactly; I did not measure the distance at that moment.

Q. You say that it was not  $21\frac{1}{2}$  miles; how far was it? A. It was not  $21\frac{1}{2}$  miles.

Q. How far was it?

A. We measured it day before yesterday. I think that I measured it then to be a mile and a half; but I did not [239—119] measure it at the time. I did not measure that at the time when I was in the chart-room.

Q. What you believed you wanted to get to was the lightship, was it not? A. Yes, sir.

Q. And you did not measure your course to see whether you were going to the lightship; is that correct?

A. I measured the course to go to the lightship but I did not know the exact distance I went because I expected a pilot at the other side of the light.

Q. You did not expect to go a mile and a half or two miles the other side of the lightship, did you, coming down the coast?

(Testimony of Captain Olaf Lie.)

A. I shaped the course to the lightship, according to my chart, as near as it could be, and I did not, as I said, take any exact distance of the lightship at that moment.

Q. You had no purpose in taking a course of south 65 east other than to get to the lightship, did you?

A. To get to the pilot station.

Q. You said to the lightship, did you not?

A. Yes, to the lightship.

Q. Now, did you tell the officer on the bridge to steer straight for the lightship?

A. I told him to keep the course, I did not tell him about the lightship.

Q. Then if he said in his testimony that you told him to steer straight for the lightship, he is incorrect, is he?

A. It is not incorrect; I told him to keep south 65 east.

Q. Straight for the lightship. You did not use those words to him, then?

A. Well, maybe I did; I would not say.

Q. Well, you may have done it, Captain. Now, I will come back to [240—120] this question again: Do you believe that the "Beaver" was in fact at any time prior to 3:10 dead ahead of the "Selja"?

A. Practically dead ahead, yes.

Q. Now, what do you mean by practically dead ahead?

A. Well, that may be a few degrees on either side, as you can locate it in a fog.

Q. Oh, then, you cannot locate accurately in a fog



(Testimony of Captain Olaf Lie.)

up to a question of two points on your compass; is that correct?     A. I can locate it, yes, I can.

Q. How did you locate it, dead ahead, or two points on your port side?

A. I located the first whistle practically dead ahead.

Q. Now, was the "Beaver" at that time dead ahead?

A. She seemed to me to be at that time about dead ahead.

Q. Was she in fact in the water dead ahead?

A. I don't know—

Q. You don't know?

A. (Contg.) —if she was—she appeared to be dead ahead.

Q. She was in fact on the course she sailed dead ahead?

A. No. On the chart I laid it out on she appeared to be one and a quarter points on the port bow.

Q. So that at the time you thought she was dead ahead she was as a matter of fact a point and a quarter on the port bow; is that correct?

A. If Captain Kidtsen's evidence is true.

Q. You have no reason to believe that that portion of his evidence is not true, have you?

A. That is the only thing I have.

Q. Is not that where she would reasonably be coming out of the North Channel?

A. Yes, if he came out of the North Channel.

Q. All right. So your idea of a whistle that is in an ascertained [241—121] position is a whistle that is anywhere in front of you over a radius of one

(Testimony of Captain Olaf Lie.)

and a half to one and three-quarters points. Is that correct?

A. It is not only the bearing we ascertained, but we ascertained approximately the distance off, that she was away out of danger of collision—

Q. (Intg.) I am not talking about that. I am talking about—just confine your mind to this. I want to get at what you mean by an ascertained position dead ahead of the “Selja.” Now, as I understand it, your definition of an ascertained position is a position anywhere within a radius of one and a half points of dead ahead; that is, a radius of one and a half points between dead ahead and port one and a half points; that is correct, is it?

A. It depends on the distance off.

Q. Well, do you mean to say that if you do not know what distance she is off that is an ascertained position? You did not know what distance she was, did you?

A. I ascertained her to be about right ahead; that is what I said.

Q. Well, but she was not at that time right ahead, was she?

A. She proved not to be, but I laid it off on the chart—

Q. (Intg.) So then you ascertained the position incorrectly at that time?

A. Probably a little, not much.

Q. You did ascertain it a point and a half incorrectly, didn't you?

A. A point and a quarter, I said, to the utmost.

(Testimony of Captain Olaf Lie.)

Q. How many degrees is that? A. 15.

Q. 15 degrees? A. Yes.

Q. We will examine your chart later on and see as to the accuracy of that. Now at that time you did not know whether it was the whistle of a steamer which was say four miles distant, or the [242—122] whistle of a fog-horn at the entrance to the Golden Gate; that is correct, isn't it?

A. The fog-horn off Golden Gate just came into my thought.

Q. I say, you did not know whether or not the whistle was the whistle of a steamer or the whistle of the fog-horn off Golden Gate; that is correct, isn't it? A. That is correct; I did not know exactly.

Q. Well, then, your idea of a definite ascertained position is any position between four and a half miles and twenty miles distant; is that correct?

A. Well, you can not absolutely ascertain the exact distance; it is impossible by the first whistle to ascertain the exact distance.

Q. Well, did you know up to 3:05 whether it was a ship four miles away or a fog-horn twenty miles away? A. I have said that—

Q. Did you know? Answer that question, did you know at 3:05?

Mr. McCLANAHAN.—Answer the question, and then make your explanation, Captain.

A. No, I did not.

Mr. DENMAN.—Q. Then—

Mr. McCLANAHAN.—Wait a minute. Now, make your explanation, Captain.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Q. That is all right.

A. But, as I said, I commenced to time it, because the whistle sounded so far away to me, that it was still in my thought that it just came into my mind of the fog-whistle off of Golden Gate.

Q. Then you would say—would you still claim that this whistle was in a definite ascertained position at 3:05?

A. The bearing was definitely ascertained, yes.  
[243—123]

Q. The bearing of the whistle, but the distance from you, was that definitely ascertained at 3:05?

A. It was not exactly, but it was absolutely out of danger of collision.

Q. I am not asking you that now. I am asking you with regard to the ascertainment of the position of the ship. I do not want you to argue the Tellus case into this record, Captain.

Mr. McCLANAHAN.—That is not a fair statement.

Mr. DENMAN.—It will be shown to be before I get through.

Q. Now, Captain, do you claim at 3:05 o'clock that the position of the "Beaver" in the water was ascertained to you?

A. The bearing of it was ascertained.

Q. Repeat the question.

(The last question repeated by the reporter.)

A. As good as it could be in the fog.

Q. Well, now, what do you mean by that. Did you know where she was in the water?

(Testimony of Captain Olaf Lie.)

A. I did not know exactly the distance.

Q. Did you know within 15 miles of the distance at 3:05?

A. I did not think of the distance at that time, no, but I had that in my mind, as I said, Golden Gate.

Q. Did you know within 15 miles of the distance at that time where she was?

A. Well, I could not say that. That is the only thing I can say, she proved to be nearer than I thought.

Q. She proved to be much nearer than you thought, about 15 miles nearer—that is correct?

A. I could not say the distance nearer, because I have not measured it.

Q. It is over ten miles, isn't it?

A. I don't know.

Q. Well, it is over ten miles, isn't it Captain?  
[244—124] A. Perhaps it is.

Q. Now, Captain, you have just stated that—I am now quoting—"The whistle of the 'Beaver' was repeated at intervals of about a minute but seemingly nearer, until at about 3:05 P. M. the 'Selja's' engines were put at slow speed." Now, the reason that you put the engines at slow speed, then, was because the whistle seemed nearer; is that correct?

A. No; because the circumstances of the case had changed.

Q. Was not the fact that the whistle seemed nearer one of the circumstances of the case?

A. It did not at that time really—that is a circumstance, right enough—



(Testimony of Captain Olaf Lie.)

Q. Then it was a fact that the whistle seemed nearer to you?

A. It is a fact, it must be nearer.

Q. I am not asking what must be, I am asking what seemed to you?

A. It seemed to be a little nearer.

Q. It seemed to be a little nearer? A. Yes.

Q. Between 3:00 and 3:05 you claim that you went about 3000 feet, don't you? A. 3000 feet, yes.

Q. About 3000 feet?

A. 3040 feet, I think it was.

Q. And the distance to the fog-horn at the Golden Gate was about 21 or 22 miles, was it not?

A. I have not measured that; I should say somewhere around 20 miles.

Q. Now, did you imagine that in that dense fog travelling 3000 feet would make the sound of the fog-horn seem any nearer? A. It is half a mile.

Q. Do you suppose that a half a mile in 20 miles in that dense fog would make a fog-horn seem any nearer—coming nearer and nearer?

A. Because we have heard the whistle so many times that it sounded to me—you know that we have heard it three or four times,—and it [245—125] appeared to me to be nearer.

Q. That indicated to you that the fog-horn was approaching you or that you were approaching the fog-horn? A. We were approaching it.

Q. At an appreciable rate—that is correct?

A. I said we were approaching the fog-horn, yes.

Q. All right. Now, Captain, you said as nearly

(Testimony of Captain Olaf Lie.)

as can be determined in the fog. Do you mean to say it is any more difficult to determine the location of sounds in a fog, than in clear weather?

A. No, it is the same, the sound. But I mean where you locate it in daylight you see it.

Q. In other words, the fog does not have any effect at all, according to your theory, on the transmission of sound through the air? A. No, sir.

Q. It does not make any difference whether the fog is thick or thin?

A. It does not, to my knowledge.

Q. To your notion, you can hear it just as well, just as certainly and locate a whistle in a fog as you can in a dark night with clear weather?

A. In a dark night and clear weather we seldom hear the whistles except they are close to us, but I should say that the whistle in the fog would be heard exactly the same as in a clear day.

Q. As in a clear day? A. Yes.

Q. You are willing to swear that is your idea of fog conditions? A. That is my idea of it.

Q. Was not there something unusual about the condition of the fog signal from Point Reyes on that day? A. Nothing unusual.

Q. What about hearing it from the north as you described—don't [246—126] you have some difficulty in hearing it—didn't it come suddenly?

A. Yes, it came suddenly.

Q. And you did not expect that, did you?

A. The only thing, the sailing directions say to the

(Testimony of Captain Olaf Lie.)

northward of it it is seldom heard, something like that.

Q. Of course, the whistle is only blown in the fog, isn't it?     A. Only blown in the fog, yes.

Q. Now, you attended a nautical school, I understand?     A. Yes.

Q. Were you never taught there that there was danger in relying on the direction of sounds in the fog for locating your position?

A. The only thing they said on sailing for a point where it was a fog signal, that sometimes it could not be relied upon owing to the deflection of the land, something like that.

Q. Owing to the deflection of the land. You never heard of such a thing as the fog itself deflecting the sound?     A. No, sir.

Q. In all your experience at sea, over all these years, you never encountered that experience in a fog; whenever you located sound in the fog it was always where you thought it was; is that correct?

A. Yes, sir.

Q. Now, Captain, as I understand it, except of course at 3:05 P. M. of this day, you heard the whistle of the "Beaver" dead ahead, when, as a matter of fact she was a point and a half or two points on your bow; is that correct or not?

A. I did not hear it at 3:05 dead ahead.

Q. You did not?     A. No.

Q. You are sure of that, are you, Captain?

A. It was a little on the port bow. [247—127]

Q. At 3:05 she was not dead ahead, at 3:05—that is

(Testimony of Captain Olaf Lie.)

what you was to swear now?

A. I said it was a little on the port bow, when we commenced to time it.

Q. When you commenced to time it, it was a little on your port bow? A. Yes.

Q. Well, at that time you did not know the distance within ten miles any way; that is correct, isn't it?

A. It proved to be that she was not the distance that I thought she was, which was in my mind.

Q. Now, you say here: "That after timing said whistles, and discovering therefrom by this means at about 3:10 P. M. that said whistle was that of an approaching steamer, the 'Selja's' engines were stopped." That is correct, isn't it? A. Yes, sir.

Q. Now, Captain, you remember testifying yesterday that when you said before the Norwegian Consul that you were going at four knots at 3:10, that what you were saying was that you had been going at an average of four knots between 3:05 and 3:10. You remember stating that yesterday, don't you?

A. Yes.

Q. Now, I want to read to you your testimony before the Norwegian Consul, and ask you whether that is a conceivable construction of it: "and at 3:10, when I was certain that it was a steamer's whistle, I stopped the engine, but the ship had then about four knots, when I stopped her, and she was just having steerage way after up to 3:15." Now, Captain, you do not mean to tell me that when you made that statement that you were then testifying as to the average speed between 3:05 and 3:10, do you?

(Testimony of Captain Olaf Lie.)

A. I might have said so the day before yesterday, but slow speed, [248—128] to my opinion, we don't know exactly what slow speed is; but when I know half speed is six knots, slow speed would be somewhere around three and a half and four knots,—if I don't know the revolutions.

Q. Well, then, your testimony was on this day that she was going at the rate of four knots at 3:10 o'clock. That is correct, is it not? A. I have said that,—

Q. And now you want to stand by that as a statement that you then made? That is correct, is it?

A. Well, I said that because I did not know exactly at that moment what slow speed was. I said about; I did not say exactly four knots; I said about.

Q. All right. Now, you have stated in your log three days before that that she was nearly at a standstill at 3:10, haven't you?

A. It was in the log, yes,—it was in the log.

Q. You signed the log, didn't you?

A. I signed the log.

Q. Signed it twice? A. Yes.

Q. You also read it to the men, didn't you, yourself?

A. The chief officer read it, as he was finishing with it.

Q. Don't you remember the testimony of the officers that you read it to the men?

A. I might have read it to the men.

Q. That you read it to the men?

A. The chief officer read it to me, and I read it over to the men again.



(Testimony of Captain Olaf Lie.)

Q. So the chief officer read it to you, and you read it to the men? A. Yes.

Q. Now, Captain, you have stated certain inferential, or made certain inferential statements regarding this rule 16. Will you please state the rule, as you understand it to be in Norwegian, and then state the rule as you understand it to be in English? [249—129]

A. Do you want it to be translated into English from Norwegian?

Q. From Norwegian.

Mr. McCLANAHAN.—Q. He wants first your translation of it from Norwegian into English, and then he wants your English understanding of the rule. Is that right, Mr. Denman?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Give first your Norwegian.

Mr. DENMAN.—Q. Before we go into that, I want to ask you concerning certain testimony that you gave before the United States Inspectors.

“Inspector BOLLES.—What are your rules in regard to hearing whistle forward of the beam? A. International rules. Q. What is that rule, do you recollect? A. As soon as you hear forward of your beam you have to slow down your engine and, if necessary, stop, and navigate carefully until the danger is over.”  
You recollect making that statement, do you?

A. Yes.

Q. Is that your idea of the rule?

A. Will you let me explain?

(Testimony of Captain Olaf Lie.)

Q. Is that your idea of the rule?

A. Can I explain?

Q. First answer if it is your idea—if it is or is not.

A. I could not at that moment translate it, because I have not had an English rule in my hand, and at that moment I could not translate it exactly into English. But let me explain it, that the first thing there is only applied to the first part of the rule, that he should slow down if the circumstances of the case or conditions requires there to be moderate speed. But the last part, it said that if you have located a whistle in a certain place and far away, it is not necessary to stop, and if you have not located [250—130] it it is necessary to stop.

Q. That is, if you have not located it, it is necessary to stop?

A. If you have not located it then, it is necessary to stop.

Q. If you have not located the place where the whistle is it is necessary to stop?

A. At that moment, if you have not located it, where it is, if it confuses and you don't know where it is, well, then, it is necessary to stop; that is the only way I can make an explanation of that.

Q. Your idea of the rule is if you do not know where the vessel is, you are to go ahead, but if you do know you are to stop; is that it?

A. I did not say so. Read my answer first, will you, please?

(The last answer repeated by the Reporter.)

A. That is it. Read the question now.

(Testimony of Captain Olaf Lie.)

(The last question repeated by the Reporter.)

A. That is the opposite.

Q. That is the opposite?      A. As you said it.

Q. It is the opposite; you say if you do know where she is you are to go ahead; that is it? Is that correct?      A. Yes.

Q. If you do not know where she is you are to stop; is that it?      A. Yes.

Q. Now, in this case, you did not know within 15 miles or 10 miles where the "Beaver" was at the time you heard a whistle, did you?

A. It proved to be that she was not in the distance that was in my mind.

Q. So that you had made an erroneous ascertainment as to her position at that time—as to her position in the water at that time?

A. It was not exactly as it proved to be, no.

Q. And you did not stop your engines for ten minutes after you [251—131] heard the whistle; that is correct?

A. I stopped it at 3:10, yes—I would not say exactly 10 minutes—it might have been nine. I did not look at the clock exactly at the time.

Q. Might it have been 9?

A. It might have been 9½ or 10, although I said it was 3 o'clock—but the time is taken from the bearing of the light I took,—it was just after the taking of the bearing.

Q. That was at 3 o'clock?      A. Yes, sir.

Mr. HENGSTLER.—Q. Might it have been 3:11, Captain?

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—No.

A. I do not understand.

Mr. HENGSTLER.—Q. Might it have been 11 minutes after 3 o'clock?

A. No. It was the first whistle.

Mr. DENMAN.—Q. Let me ask you, Captain, about that bearing that you took at 3 o'clock. I believe you found the position then to be due south, as far as the bearing showed in that thick fog, due south of the Point Reyes lighthouse, didn't you?

A. The bearing was due north.

Q. That is to say, as far as you could tell it in the fog? A. Yes, sir.

Q. Now, tell me what charts you used in making up this course that you have presented to the Court here as the true statement of your course. What charts did you use in doing that?

A. The first chart I used was the chart which you showed me day before yesterday, which I figured on day before yesterday.

Q. That is to say—

A. (Intg.) The American chart—I don't remember the number of it.

Q. We will get the number right here. No. 5500, isn't it? A. Yes, that is right. [252—132]

Q. And it is on that that you base your testimony as to your course, isn't it?

A. Yes—no, I am wrong there, because the course is not laid out on that chart, you must remember.

Q. I know that.

A. It was not laid out on that chart. That is only

(Testimony of Captain Olaf Lie.)

laid down up to the point of the collision after I came ashore; it was not necessary for me to lay it down to the lightship, you understand?

Q. That is all right. I want to find out what you used in making up this course that appears here on Libelant's Exhibit 1, which I now hand you.

A. The first days of December, I don't remember exactly the date, I bought this chart privately and made it up with myself, nobody else. I just had it privately, because I wanted a larger scale. I did not fancy the scale on 5500 was large enough, and I wanted to see if the bearing taken by myself corresponded exactly as to the first soundings taken; that is the soundings that was reported to me by the chief officer, you see, because on that chart you could not locate it as exactly as you can on a chart with a larger scale, and that is the reason I bought it. And this is a copy of that of the "Selja's," but of the "Beaver's" it is a little different.

Q. All right. Then, as I understand it, in making up this course on this chart, you did not use any other chart or the soundings on any other chart. Is that correct?

A. No. I just took the soundings the chief officer gave me.

Q. And compared them with the soundings on this chart?

A. There is no soundings on this chart. There is no sounding. I found there was no sounding to help me on this chart.

Q. You made up your course, then, here, without



(Testimony of Captain Olaf Lie.)

using the soundings [253—133] at all; is that correct?

A. Yes, but I took the three bearings on this chart.

Q. Then your course there relies entirely on the bearings as shown on that chart? A. Yes.

Q. And the soundings were not used at all in determining the course as shown on that chart; that is correct? A. No, they were not.

Q. Not used at all? A. No.

Q. So that if the soundings should disagree with that chart there would be evidence you had made a mistake in your course, would it not?

A. What is that?

Q. I ask you the question, if the soundings should disagree with the course shown on that map it would be evidence that the course was incorrect, would it not?

A. Yes, if the soundings which I had given to me at 2:50 did not correspond and the distance off as given by the bearings did not correspond, well, then, something must be wrong.

Q. Exactly. It is not the soundings that were given you that determine or that you understand determine the position of the vessel, it is the actual soundings, is it not, Captain?

A. It is the soundings that determine that distance off, that first distance off as given in the log at that time, one and a half miles off abeam, when we passed the light.

Q. That was at 2:50, was it not? A. Yes.

Q. You passed the light at 2:50 and you claim that

(Testimony of Captain Olaf Lie.)

the water under the vessel at that time was something about 29 fathoms?

A. Yes; that is what was reported to me.

Q. Of course if that was in error then your whole calculation would be off, wouldn't it?

A. No, it would not, because I had the [254—134] bearings myself.

Q. Except for the whistle bearings, if that report was in error that fathom marking of it is incorrect?

A. No, sir, not exactly.

Q. Why not?

A. Because you see there is 29 fathoms there, and I passed on the edge of the bank exactly to my knowledge when I was abeam of that light, and if it was a little past it I might have more depth, and although the position would be practically the same—it is just a little—the bearing would be absolutely the same.

Q. What was told you you say was 29 fathoms?

A. Yes.

Q. All right; at 2:50.      A. Yes.

Q. Now you don't know whether that fathom marking was on the edge of the bank or not, do you?

A. It could not have been anything else.

Q. It could not have been anything else but on the edge of the bank.      A. Yes.

Q. But you are certain it was 29 fathoms at 2:50?

A. That is what was reported to me. And the soundings before then just prove it to be correct.

Q. Now, don't you know that the sounding at 2:45 was 35 fathoms?

(Testimony of Captain Olaf Lie.)

A. I did not know that at that moment, no.

Q. Don't you know now that the sounding at 2:50 was 35 fathoms?

A. It appears in the evidence given by the second officer it was.

Q. Also the sounding at 3 o'clock was 35 fathoms?

A. It appears that way in the evidence.

Q. Now, I want you to take your chart there, Libellant's Exhibit 2, and draw a line through Point Reyes due north and south; continue the marking right on down. Now, Captain Lie, you were somewhere [255—135] on that line at 3 o'clock, were you? A. Yes, sir.

Q. Will you please mark on that line the nearest point to Point Reyes at which you could have 35 fathoms.

A. That is hard; it might be 35 there and it might be 35 there (pointing).

Q. Do I understand you to say then that in your opinion 35 fathoms could be between the 30-fathom mark and the 34-fathom mark on that?

A. Yes, I think so.

Q. That is the way you read these charts, is it?

A. Well, if the other soundings do not show—

Q. I am not asking you about the other soundings.

A. I can't rest entirely upon one sounding.

Q. I am not asking you to rest on one sounding. Just wait a minute. I am asking you as an expert to lay off on this chart the various points I want you to find. Now, I want you as an expert to tell me whether in your opinion as an expert you can say

(Testimony of Captain Olaf Lie.)

that between the 30-fathom and the 34-fathom mark you can mark 35 fathoms?

A. It may be more there (pointing). According to one sounding I would say up there perhaps.

Q. Mark that.

A. Well, I would not—we don't go backwards; we have to come from the first start and take 35.

Q. If it won't stand for backwards, it won't stand for forward, Captain. We will mark this on Libellant's Exhibit 2, "Lie 1."

Mr. PAGE.—Now, Captain, I do not think you have quite identified the spot that is now marked between 34 and 30.

Mr. DENMAN.—Q. This is the spot that you have now marked, Captain, as the spot, just to the south of sounding 34. Is that correct?

A. Yes, sir. [256—136]

Mr. PAGE.—Q. And it is marked "Lie 1."

A. Yes.

Mr. McCLANAHAN.—Q. And has a circle around it.

Mr. DENMAN.—Q. Now, Captain, will you mark or run through that point a course south 65 east?

A. Yes.

Q. Run it way down to the lightship.

A. To the lightship?

Q. To the lightship, yes. A. Yes; all right.

Q. Now, Captain, as I understand you to say, or do I understand you to say that to the south of this mark 36 which appears just above the cross you have drawn, that you might have 35 fathoms of water to

(Testimony of Captain Olaf Lie.)

the south? A. No, sir, absolutely impossible.

Q. Why is that?

A. Because it is 41 down here, and it is 35 up here—not between there.

Q. So that it is perfectly safe to say then that this marking of 35 fathoms must be to the south of it; that is correct, isn't it?

A. I do not say that; no, it is not absolutely correct. I said—will you let me explain?

Mr. McCLANAHAN.—Q. Go ahead; nobody is going to stop you.

A. But on one bearing, if I had—

Mr. DENMAN.—Q. I am not asking you as to that.

Mr. McCLANAHAN.—Let him explain. Wait a minute.

A. If I had only one bearing and one drop of the lead, then I would assume that, but if I had succeeding sounds, and found them to be 35, I would draw them close to the bank, succeeding soundings.

Q. Do you find anywhere there where you could have 29 fathoms at 2:50? A. I can get that.

Mr. McCLANAHAN.—He has not asked you a question yet. You are [257—137] beginning to figure before he asks you a question.

Mr. DENMAN.—Q. (Contg.) Where you would have 29 fathoms at 2:50 and for five succeeding soundings had 35 fathoms—at 2:50, mind you, at 2:50. A. Not exactly; no.

Q. You could not have them? A. No.

Q. So that if there were five succeeding soundings



(Testimony of Captain Olaf Lie.)

at 35 fathoms you could not have had 29 fathoms at 2:50; that is correct?

A. Not necessarily so, not exactly, but as a matter of fact if I was a quarter of a mile farther in I would have had it.

Mr. McCLANAHAN.—Q. Have what?

A. Would have had 29.

Mr. DENMAN.—Q. But you say you had 29.

A. You see this must be based upon my first experience when we entered that bank, and I placed that position abeam through the sounding I got from the first officer, and also afterwards of the two bearings I had myself.

Q. By the way, you had not taken those bearings as I understand you; you ordered your officers to take them. You remember that, don't you?

A. The last bearing, yes.

Q. And also the second bearing at 2:50, you remember that also, don't you?

A. I took the bearing as well as the officer.

Q. I thought you told the first officer to take it at that time? A. That was at 3 o'clock.

Q. How about 2:50. A. I took that myself.

Q. At 2:50 you took the bearing yourself.

A. Yes, sir.

Q. So that these courses are made by you as the result then of the bearings at different points, some of which were taken by you and some by the other officers; is that correct?

A. No, sir, it is not correct. I will explain why it is not correct. [258—138] The first bearing at

(Testimony of Captain Olaf Lie.)

2:30—2:30 or perhaps 30 seconds later—was taken by me; that is, east by north, and the bearing abeam was taken by me, and the bearing at 3 o'clock was taken by the first officer just to find out if my two bearings were correct. But I did not get time on board to ascertain that; as you remember, in my evidence, I did not get into the chartroom afterwards, but when I came ashore I laid all those three bearings off, not taking any soundings into consideration, and the last bearing proved the correctness of the bearing abeam, and the other bearing.

Q. The soundings, that is to say, a succession of soundings of 35 fathoms was had, so you could not have had 29 fathoms at 2:50?

A. That is reported by the second officer, that is over a week after that was laid down by me, and the second officer never told me anything about 35 fathoms except that he reported to me the last sounding he had just before the collision.

Q. He was the man that was actually doing the sounding, was he not?

A. He was taking the soundings but I do not know exactly what time he gives.

Q. He gives what time they commenced, don't he?

A. I expect he does.

Q. Well, now, Captain, you have not stated to me yet what rule 16 is in Norwegian translated into English.

A. Do you want that exactly, the rule—the wording of it as it appears in the book?

Q. Give it as an expert, Captain, would.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. He wants your best recollection of it, Captain. (Addressing counsel.) I suppose you refer to the whole rule and not to the latter part? [259—139]

Mr. DENMAN.—Just the rule in so far as it refers to a whistle heard forward of abeam in the fog.

Mr. McCLANAHAN.—Q. He wants your best recollection of the latter part of the rule as it appears in Norwegian?

A. A steamer hearing a fog signal of another vessel forward of her beam, which vessel is not surely or exactly ascertained, you shall, as far as the circumstances of the case admit, stop your engines and navigate with caution until the danger of collision is over. I think that is it.

Mr. DENMAN.—Q. What is the English rule?

A. A steamer hearing apparently forward of her beam a fog-whistle of another vessel, the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines and then navigate with caution until the danger of collision is over.

Q. Yes. Was there anything in the circumstances here which prevented your stopping your engines? A. Yes.

Q. Between 3 o'clock and 3:10? A. Yes.

Q. Was this thing that prevented you from stopping your engines anything of a physical nature?

A. What stopped me from stopping the engines was that the whistle that we saw in a certain position and so far away that it was not necessary in my

(Testimony of Captain Olaf Lie.)

opinion to stop, or, according to the rule, to see that it was out of danger of collision. The rule says navigate with caution until the danger of collision is over.

Q. Then your idea is that you should navigate with caution before stopping the engines; that is correct?

A. If you have not located the whistle, well, then you have to stop, but if you have [260—140] located the whistle as far as it can be located in the fog, well, then, you do not have to stop, in my opinion.

Q. What do you mean by as far as it can be located in the fog? I thought you could always locate the whistle in a fog.

A. I do locate it, but I mean as far as the position can be located.

Q. You say that you can always locate a whistle in a fog.

A. Yes, but you can't locate it, I mean, with a certain bearing and know the distance off as we can with a bearing in clear weather; that is what I mean.

Q. Then you did not locate this whistle as far as the distance off was concerned?

A. Not the exact distance, but I have located it to be outside of danger of collision by all means.

Q. You had not located its position?

A. Exactly, no.

Q. You did not know within 15 miles of where she was?

Mr. McCLANAHAN.—That has been gone over.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Yes, I know it has.

Mr. McCLANAHAN.—It has grown five miles since the last question; it was 10 miles before.

Mr. DENMAN.—Q. Now, Captain, that is your interpretation of the rule, is it?

A. I have read the rule.

Mr. McCLANAHAN.—Q. You say you have read the rule. A. I have read the rule.

Q. You do not mean you have read the rule, do you? A. No. I have stated the last part of it.

Mr. DENMAN.—Q. Now, Captain, up to 3 o'clock P. M.—I mean up to 3:10 o'clock P. M. had you located the course of the "Beaver"? A. At 3:10.

Q. I mean up to that time, prior to that time, had you located the course of the "Beaver"?

A. Well, yes, I should say I have, [261—141] at that time, because the bearing did not seemingly change, and I should say that I knew about the course of her when I stopped.

Q. The bearing had not changed at all, had it?

A. It changed from the first, yes—it changed a little from the first.

Q. That is to say, it changed from dead ahead to port, did it not?

A. Yes. After the first bearing it changed, but after we commenced to time it it did not apparently change.

Q. Then could you tell, if it did not change whether she was crossing your course or coming directly for you?

A. If she was on the port bow she must have



(Testimony of Captain Olaf Lie.)

crossed our bow a little, to get on the port bow.

Q. She must have crossed your bow? A. Yes.

Q. You did not know that until 3:10, did you?

A. No, not exactly, because I had to have succeeding bearings before you know it.

Q. So that your idea is that you could wait ten minutes in a fog to calculate succeeding bearings before you determine whether or not she is crossing your bows and you shall stop your engines; that is correct, isn't it?

A. If the vessel appears far enough off I can do it.

Q. So it all rests upon whether or not you can tell the distance the whistle is off in the fog; that is correct?

A. Yes; I can tell if it is outside of danger of collision.

Q. Now, Captain, how do you distinguish between a loud whistle at a distance and one-half as loud which is nearer in the fog?

A. That is very hard to explain, but I can always say that.

Q. You can always say that, but you could not say in this case whether this whistle was a fog-horn or a steamer?

A. It was a loud whistle, a very loud whistle.  
[262—142]

Q. It was a very loud whistle?

A. Not very strong, I mean, but you could hear, it was deep and strong—you could hear that, although it sounded faint—you could hear that, if there is no disturbance to interrupt you.

(Testimony of Captain Olaf Lie.)

Q. So this was a deep, strong whistle blowing intermittently at a space of about one minute apart from 3 to 3:10, and up to 3:10 you could not tell whether or not it was a steamer's whistle or the whistle off Golden Gate; that is correct, isn't it?

A. At 3:10 I knew it, yes.

Q. Up to that time you did not know it?

A. No, up to that time I did not know exactly, but I made up my mind a little before 3:10 that it was a steamer, and I stopped at 3:10.

Q. Oh, yes; and you want to take back what you have stated here that you stopped your engines as soon as you made up your mind it was a steamer. It was some time after you made up your mind it was a steamer?

A. I made up my mind before, of course, because I could not act first and then make up my mind afterwards.

Q. There was just that instant of acting between the two.      A. That is only an instant of action.

Q. So that there was not any appreciable space of time elapsed—about 3:10 you make it, don't you?

A. Yes.

Q. You looked at the clock, didn't you?      A. Yes.

Q. Now, Captain, don't you know as a matter of fact that you had been lying there 10 minutes rolling in the trough of the seas?

A. We had not been rolling at all.

Q. Rolling in the trough of the seas at a standstill?

A. No, sir.

Q. For ten minutes?      A. No, sir. [263—143]

(Testimony of Captain Olaf Lie.)

Q. From 3:05 on? A. We had not been rolling.

Q. Don't you know as a matter of fact—

A. No, I don't know that.

Q. Don't you know that you said it to five different persons after you came on shore here?

A. No, sir, I have not said a word about it, Mr. Denman.

Q. Absolutely not?

A. Absolutely not, because that is a lie.

Q. Maybe, Captain; we will find out.

A. That is a lie.

Q. Now, Captain, why was it important to state—remember that you are an expert now—why was it important to state the fact, or rather, that the other vessel struck you at an angle of 70 or 80 degrees? Why did you consider that important, that angle?

Mr. McCLANAHAN.—I object to that question—

Mr. DENMAN.—Q. (Contg.) As an expert.

Mr. McCLANAHAN.—I object to that question on the ground that it does not appear the captain considered it important.

Mr. DENMAN.—Q. Do you consider it important? A. No, I do not.

Q. Now, as a matter of fact, you testified on three different occasions she struck you at a right angle, didn't you?

A. About, I would not say exactly, but the angle was increasing; that is what I said. And at the time she struck, the angle was increasing,—from the time I saw her until the time she collided I said she would probably be 70 or 80, or between 70 and 80 and

(Testimony of Captain Olaf Lie.)

90, or between there.

Q. As a matter of fact, you swore on three occasions it was at a right angle, didn't you? That is correct?

A. I did not say exactly.

Q. Didn't you say at right angles?

A. I mean about, because I could not say exactly, I don't know. [264—144]

Q. You did testify that the vessel struck your vessel at right angles, didn't you?

A. I have said about a right angle.

Q. About right angles? A. Yes.

Q. And now you are trying to shift that to an angle of 80 degrees?

A. I am not trying to shift it, but it was impressed on my mind that I said 70 or 80 degrees—it is not important to me.

Q. Then it might have been 90 degrees?

A. It might have been between 70 and 90, but I do not think it was 90.

Q. But you did swear it was 90 when they asked you the question before.

Mr. McCLANAHAN.—I object to that on the ground it is not a proper statement of what he swore to. He never said it was 90.

Mr. DENMAN.—Q. You did swear it was at right angles, didn't you?

A. About right angles, yes.

Q. Now, Captain, at the time that the "Beaver" struck you, how much had you fallen off from your course?

(Testimony of Captain Olaf Lie.)

A. I said about a point, or from half a point to a point—I don't know exactly.

Q. Now, Captain, do you remember testifying before the United States Inspectors as follows: "We were off the coast. The third officer was logging S. 65 E. Magnetic. At the moment she struck I should think he came  $\frac{1}{4}$  of a point south. His wheel was on the starboard quarter." Do you remember that testimony?

A. I don't remember it because I don't understand it. That is—

Q. (Intg.) Wait a minute. "The third officer was logging S. 65 E. Magnetic." You understand that don't you?

A. I do not log the course—I never told him to log the course.

Q. You know what that means, "The third officer was logging S. 65 E. Magnetic"—you know what that means? [265—145]

A. I don't know what it means, no.

Q. Do you know that this means: "At the moment she struck I should think he came  $\frac{1}{4}$  of a point south." You know what that means?

A. Yes, I know what that means.

Q. You said that at that time, didn't you?

A. Well, if it is there, I may have said it.

Q. You don't remember—

A. I don't, but I said she may have been from—she was to the southward of the course, I know that, because I asked the man at the wheel prior, or between 3:10 and 3:15, what she was heading, at the



(Testimony of Captain Olaf Lie.)

same time as the third officer was there—

Q. You watched her fall off yourself, didn't you?

A. I didn't want her to fall off.

Q. I say you watched her fall off yourself, didn't you?

A. No, sir, I didn't want her to fall off.

Q. I say you testified here she fell off a quarter of a point—you saw that with your own eyes, didn't you?     A. No, I did not.

Q. How did you know she fell off a quarter of a point then?

A. That is what I asked the quartermaster for how she was heading, and he told me in his Chinese language what she was heading, but it was only immaterial to me anyhow, because my vessel was moving so very little that I did not pay much attention to the course.

Q. I believe you said in your examination yesterday that the "Beaver" after she came in sight did not seem to change her course. That is correct, isn't it?     A. Yes.

Q. That is what you said yesterday.     A. Yes.

Q. Do you remember testifying before the Norwegian Counsel as follows:

Question by Judge BROWN—referring to the "Beaver," this is: [266—146]

"Q. How, or what course, did she appear to be heading and at what rate of speed did she appear to come?     A. I would say that when she struck my vessel, she had about ten knots, and her course was then at right angles to our ship,

(Testimony of Captain Olaf Lie.)

but I did not look at my compass to see what she was heading; you see she swung some but I should say she was steering somewhere about west by—oh, I can't say, but I should judge it was crossing our bow somewhere about a point or two points."

Do you remember that testimony?

A. Well, I have not seen it. I have not looked that over; if it is there of course I said it.

Q. Was that true, "You see she swung some but I should say she was steering somewhere about west by—" words to that effect? That is what you said?

A. I am certain that did not apply to the "Beaver," all of that.

Q. Here is the question: "How or what course, did she appear to be heading, and at what rate of speed did she appear to come? A. I would say that when she struck my vessel, she had about ten knots, and her course was then at right angles to our ship, but I did not look at my compass to see what she was heading; you see she swung some but I should say she was steering somewhere about west by—" Do you—

Mr. McCLANAHAN.—Read the balance of it.

Mr. DENMAN.—Q. "Oh, I can't say, but I should judge it was crossing our bow somewhere about a point or two points." Do you mean that your testimony that "you see she swung some but I should say she was steering somewhere about west by"—applied to your ship?

A. No, I do not say it was crossing our bow a

(Testimony of Captain Olaf Lie.)

point and a half—I don't know—that must be that she was heading [266½—147] about a point and a half—that is 82—north 82 west, it would be, that she was heading.

Q. Then you did say at this time that “she swung some but I should say she was steering somewhere about west by” whatever it was?

A. I could not say if she did swing absolutely for certain. I said she did not appear to swing to me very much.

Q. But—

A. (Intg.) She did not appear to me swing anything.

Q. To swing anything?

A. Well, because I looked at the “Beaver” when she came along and I could not say for certain if she was not swinging to either side—I could not say that because it is very hard for me to say, but she appeared to me to come pretty nearly the same as she headed first when I saw her.

Q. This was four or five days after the accident when your memory was fresh—“You see she swung some but I should say she was steering somewhere about west by.” You did say that?

A. Well, if it is there I said so, that is a sure thing. It is only a matter of judgment.

Q. Your judgment then was she swung and your judgment now is she did not?

A. I have said so; she did not appear to swing much to me.

Q. Now, did you at any time say anything to the

(Testimony of Captain Olaf Lie.)

third officer concerning a two whistle signal?

A. Yes, I did.

Q. I thought so. Now when you came in, Captain, to-day, you corrected a statement that you had made, that is to say, you said if she had six knots at 3:05 and you then reduced the engine to slow speed, that she at once would begin to fall off?

A. She will commence to fall off, but of course her falling off from the first start would not be as great as the latter part.

Q. That is what you meant when you said yesterday that the curve [267—148] was sharper at the end than at the beginning?

A. Yes, it would not be absolutely straight—I mean she will come down. I can illustrate that.

Q. Will you illustrate it, please?

A. Of course, it is not absolutely correct, Mr. Denman. It is just what I think. That is what I think the curve would be; I would say she would come along here at the utmost at six knots. (Illustrating.)

Q. Just mark the time at the beginning of the curve. Now at 3:05—I want you to curve it from 3:05 to 3:10?

A. I should say the curve would go—it is very hard to say—that is approaching it, the curve.

Q. Where do you make your three knots?

A. Three knots would be from there to there, half of that, or a little more than half of that, you see (illustrating.)

Q. Oh, then you think you would drop, lose your

(Testimony of Captain Olaf Lie.)

entire six knots impetus at how many minutes?

A. This is not the minutes, that is a mile.

Q. Then you would lose your entire three knot—I mean six knot impetus in what period of time?

A. I would say she would be down to her speed—this is only judgment—at about three minutes, or perhaps we will say—I will say three minutes. I would not say for certain. This is only a judgment, I don't know.

Q. She would drop three knots off her speed in three minutes?

A. Three minutes perhaps, three and a half, I could not say exactly; that is just my judgment.

Q. Although she was being then driven—

A. (Intg.) By twenty revolutions.

Q. By 20 revolutions? A. Yes.

Mr. HENGSTLER.—Q. You mean 5 minutes after 3?

A. I mean that [268—149] at 3:08—she would probably be down to her three knots at 3:08.

Mr. DENMAN.—Q. Why have you changed your testimony in that regard since yesterday?

A. Because when I thought of it, it is impossible that a ship can carry the momentum she had for a minute and a half when her propeller is only doing half as much.

Q. But why do you drop it now down to three minutes or three and a half minutes she would lose the entire six knots?

A. Because that day I tell you my mind was not as clear as ought to be under the pressing cross-exam-



(Testimony of Captain Olaf Lie.)

ination, Mr. Denman.

Q. Your mind is clear now on the subject, is it?

A. I think it is.

Q. Now, you want to go back to your first statement as to the distance you covered between 3 and 3:15; is that correct?

A. Well, the distance between 3 and 3:15 is based upon—I can explain.

Q. You want now to go back to the first statement that you made as to the distance you covered between 3 and 3:15; that is correct, is it?

A. It is not based entirely upon that either.

Q. I want to ask you whether you do go back?

A. Yes, I want to go back.

Q. That is something over 6000 feet; is that correct? A. From 3 to 3:15?

Q. Yes.

A. That was 6040 feet—a mile—I mean 6080 feet.

Q. 6080 feet? A. Yes, a knot.

Q. All right. You want to stand by that, do you, Captain?

A. Yes, about.

Q. Now, as I understand it, you testified before the Inspectors that if she had a 10 knot—what is your full speed? 11 knots [269—150] isn't it?

A. This voyage it was 10 knots—about  $10\frac{1}{4}$  knots.

Q.  $10\frac{1}{4}$  knots. A. Yes, sir.

Q. If she were going  $10\frac{1}{4}$  knots, that she would be dead in the water at the end of 10 minutes?

A. I did not say that. She would probably be more than ten minutes if she was not reversed, I

(Testimony of Captain Olaf Lie.)

stated, I think I said she would not be at rest in 10 minutes. I could not say exactly. That is impossible for me to say, because I have not—

Q. One moment, I am asking you now about what you testified before the United States Inspectors.

Mr. McCLANAHAN.—That is not the proper way to do it.

Mr. DENMAN.—I am going to read the exact statement and ask him whether he said it.

Q. How much would it take over ten minutes, Captain?

A. I could not tell you that.

Q. You cannot. You have not made that calculation? A. No, sir.

Q. The statement is it would take her over ten minutes in that testimony. Then in your opinion she would drop her six knots speed to three knots in three minutes?

A. I would say about three minutes, I could not say exactly, Mr. Denman. I would say about three minutes; she would drop down to that before the end of five minutes.

Q. Before the end of five minutes?

A. Yes, sir.

Q. Now, Captain, suppose you had stopped your engines at 3 o'clock, you would have been down to three knots speed at somewhere around 3:03. would you not?

A. No—if I stopped the engines?

Q. Yes.

A. That is a different thing altogether.

(Testimony of Captain Olaf Lie.)

Q. I say, if you had stopped your engines?

A. At 3 o'clock?

Q. Yes. A. Doing six knots? [270—151]

Q. Yes.

A. She would not be down to three knots in three minutes.

Q. She would not? A. No.

Q. She would go faster?

A. The propeller had nothing to do then; the propeller was at rest then.

Q. Suppose now the engine stops, she was not being helped at all by the propeller.

A. I don't think she would be down to three knots by three minutes, although I could not say for sure.

Q. Do you think she would drop from six knots to three knots quicker with the propeller than without it?

A. I think so, because the propeller is doing a certain kind of work.

Q. Well, the propeller is helping, isn't it?

A. The propeller is helping it.

Q. You say that with the propeller helping her she would drop from six knots to three knots in about three minutes. Now, I ask you if the propeller were not helping you, how long would it take her to drop to three knots? A. I could not say.

Q. It would be less time, wouldn't it?

A. I do not think so; that is my opinion. I do not think so, I cannot say for sure.

Q. Isn't it common sense that if the propeller is helping you you will drop slower?

(Testimony of Captain Olaf Lie.)

A. That is not common sense. It is impossible for a man like me or you to know it, because it has got to be entirely based upon experience. I know vessels of my size that have travelled ten knots and stopped that would go at least 20 minutes before coming to a rest.

Q. I am not talking about coming to rest at all. You have now testified that between 3:05 and 3:08, with the propeller going at 20 revolutions, she would drop from six knots to three knots?

A. I think she would. [271—152]

Q. Now, if the propeller were not working, how fast would she drop?

A. I could not tell you, I think perhaps she would do the same. I could not say. I do not say she would not do it in less.

Q. Would she do it in more?

A. Well, that is a question.

Q. Is that conceivable, Captain? Is it conceivable that she would drop her speed slowed if the propeller were not going than if it were going?

A. I do not know exactly how long she would carry, but it is based upon a thing it would take—

Q. (Intg.) I am not asking you that question.

A. It is based upon how long it is before she will come to rest. I think by going six knots, I should say, although I do not know, it would take her perhaps 15 minutes to come to rest.

Q. I am not asking you about coming to rest.

Mr. McCLANAHAN.—He says it is based on that.

(Testimony of Captain Olaf Lie.)

A. It is based on that; and I know she would not carry, if she was slowed down from half speed, she would not carry that over three knots for the same length of time. She would come down to her ordinary speed, to her propeller within five minutes, or three minutes, I could not say exactly.

Q. Well, it might have been five then?

A. No, I do not think it would take five.

Q. Just come down to what you think it would be. You think it would be three, don't you?

A. Well, I think so.

Q. Well, let me put the question to you, because I do not want you to say you did not understand it: if with the thrust of the propeller at revolutions she will drop from six knots to three knots in three minutes, how long will it take her if she has not got the thrust of the propeller to drop from six knots to three knots? [272—153]

A. I could not answer because it cannot be answered mathematically exactly.

Q. All right. Would it take her longer or a shorter time to drop from six knots to three knots if the propeller were not turning?

A. It seems really to us sitting here I should say that she would probably come down in a shorter time, but I am not sure of that.

Q. Isn't that common sense?

A. It is between us but I would not say that because it may be—I don't know.

Q. Have you been saying anything between us that you do not know is common sense?



(Testimony of Captain Olaf Lie.)

A. No, I do not know exactly.

Q. Isn't that common sense, Captain, that the thrust of your propeller would help you ahead during the three minutes—would it not?

A. Yes, it would help ahead.

Q. It certainly would.      A. Yes.

Q. Isn't it quibbling to say anything else.

A. No, no; that is right.

Q. Then it is safe to say you would drop from six knots to three knots without the thrust of the propeller in two minutes, isn't it?

A. I would not say anything because I don't know.

Q. How do you know the other?

A. Well, I just thought that it would be. I could not say anything of this thing for certain; I have said that.

Q. How long do you think it would be?

A. Let us say between two and three minutes; we can say that.

Q. Won't your propeller give you at least one-third help during that period?

A. But when the propeller is only pushing three knots the propeller isn't making any more than three knots.

Q. Your theory is the propeller would not help at all? [273—154]

A. It would help when you got down to three knots.

Q. It would not help you before that?

A. It would keep up to three knots, then.

Q. Well, if you had stopped your engines at 3

(Testimony of Captain Olaf Lie.)

o'clock you were certain that by 3:03 you would be down to the three knots, at any rate, on this theory?

A. Yes, I should say so, although I do not know exactly, for sure.

Q. You know it as sure as any of the calculations you made here? A. On this?

Q. Yes.

A. I do not know it as good as when I get a calculation which I can base upon mathematical matters.

Q. You know it as good as any of the calculations you have made as to the distance you covered between 3 and 3:15, don't you? A. Yes, about.

Q. Now, Captain, how far would you travel between 3 o'clock and 3:03 at the speed gradually dropping from six to three knots, as you approximate it, from your practical experience. Just take a pencil and paper and take plenty of time.

A. I cannot figure that exactly.

Q. I do not want it exactly.

A. I can't figure that.

Q. Figure it the same way as you figured the other one between 3:05 and 3:10.

A. Let me explain how I figured that to you. I said I thought to myself on figuring that that the push of the propeller she had after 3:05 would be equal to what she would have less after 3:10, you see; that is to say, she would have so much more than three knots before 3:10 as she would have less than three knots after 3:10, and if she was going at a rate of three knots for ten minutes, then she would cover

(Testimony of Captain Olaf Lie.)

a distance of a mile. That is plain, isn't it? [274—155]

Q. But you have calculated that and laid it off on the chart on distances between different times.

A. Yes.

Q. And also at different rates during those times?

A. Yes. I will explain to you how I did that.

Q. I am not asking you how you did that. We will come to that later on. I want to ask you how much you figure your vessel would run between 3 o'clock and 3:03 with the speed at 3 o'clock at three knots, and the speed at 3:03 at three knots? What would be your maximum you could have run in that time?

A. Well, I could not say. Do you mean the distance?

Q. The distance, yes.

Mr. McCLANAHAN.—Q. Do you understand the question?

A. I understand the question, yes, I could not say that. But I should say she could travel in that three minutes between 1,500 and 1,600 feet, perhaps.

Mr. DENMAN.—Q. What would she travel at the rate of? A. That is about.

Q. Between 1,500 and 1,600 feet. What rate is that? A. That is about.

Q. What do you think her average speed would be? A. That is about five knots.

Q. You think her average speed then would be—

A. (Intg.) Four and a half to five knots. I could not say, that is impossible to say, exactly.

(Testimony of Captain Olaf Lie.)

Q. You think it would run at the average speed of four and a half to five knots without the thrust of her propeller between 3 and 3:03?

A. I think so; that is my opinion, although I do not know exactly.

Q. So that then between 3:05 and 3:08 with the thrust of the propeller [275—156] she would run more than four and a half or five knots speed; is that correct?

A. No. I have said she would between 3:05 and 3:10.

Q. I am now asking you—you say that she would lose all right?

A. I do not really understand that question—from 3:05 to 3:08, she would run more than  $4\frac{1}{2}$ ?

Q. Yes. You say that from 3 to 3:03—

A. (Intg.) Yes, I should say she would probably run—I can't figure that exactly.

Q. But I mean approximately, from your experience. A. Yes.

Q. In the handling of that vessel. A. Yes.

Q. You have had a good deal of experience with her, haven't you?

A. Yes, but I have not had any absolute data concerning her.

Q. Well, then, you would cover how many feet would you say between 3 and 3:03?

A. 1,500 or 1,600 feet.

Q. Just figure that out; see if you get it that at  $4\frac{1}{2}$  knots. A.  $4\frac{1}{2}$  knots?

Q. Yes. A. I said  $4\frac{1}{2}$  or 5. I took 5 knots.

(Testimony of Captain Olaf Lie.)

Q. Take 5 knots and figure it accurately,—three minutes at five knots an hour.

A. It would be about 1,518 feet.

Q. Now, Captain, suppose—by the way, have you prepared those problems for me?

A. Yes. I worked out some, yes, which is laid down on the chart. (Handing.)

Mr. McCLANAHAN.—The witness hands counsel the data called for.

Mr. DENMAN.—Q. This is not what I wanted, Captain. What I wanted is your actual mathematical figures whereby you got the results testified to yesterday. For instance, you say here that the pitch of the propeller is a certain amount. Now, of course, [276—157] you had to figure that in. There is no hurry about it.

Mr. McCLANAHAN.—I think you have got what you want.

Mr. DENMAN.—I think we had better adjourn now until this afternoon.

(A recess was here taken until 2 P. M.) [277—158]

#### AFTERNOON SESSION.

OLAF LIE, cross-examination, resumed.

Mr. DENMAN.—Q. Captain, I believe you testified that in plotting the curve of the decrease in speed of your steamer when you had taken off the power of the engines, that the curve drops much more rapidly at the end than at the beginning; that is correct, is it not?

A. Well, I do not know exactly, but I think so.



(Testimony of Captain Olaf Lie.)

Q. That means that she keeps up her speed more in the beginning and loses it more rapidly at the end, does it not?

A. No, it does not mean that she keeps it up. Of course, the first speed she loses more, but after she gets down to a certain level then it will keep on.

Q. But you have just said that the curve dropped more rapidly.

A. Yes; the speed she was going, that would drop more at first, not exactly at the minute, I should think a little bit after.

Q. You have testified and you have drawn on your illustration here a line showing that the speed of the ship would drop more rapidly at the end than at the beginning. A. Yes, I did.

Q. That is correct, is it not?

A. Well, to my belief. I do not know exactly.

Q. You do not know exactly. What do you mean by that. You do mean that she would drop her speed more rapidly at the end of the period than she would at the beginning of the period?

Mr. McCLANAHAN.—He has stated that is his belief; that is sufficient.

Mr. DENMAN.—Q. So that if you were to stop the engines going at six knots speed she would drop more rapidly at the latter half [278—159] of the period during which she comes to an entire stop than she would in the first half?

A. Is that with her engines going at three knots?

Q. No, her engines are stopped.

A. No. Then she will drop a little first, but she

(Testimony of Captain Olaf Lie.)

will keep up the speed; the curve at the last end will keep up; it will drop a little first, to my opinion, and then it will keep on.

Q. Now, what difference does it make in dropping from six knots to three knots, a three-knot speed on your engine, in the rapidity of the curve at the end, in the dropping from six knots to three knots, without the engine going on?

A. I do not know exactly how the curve would be, but I should think there is a difference in the curve.

Q. Would not the difference be that when you did not have the engine the drop would be more rapidly at the end than when you did have the engine?

A. No, sir. As soon as you get down to the three knots, you keep on three knots. That shows she will drop only to three knots and keep on.

Q. I am asking you—you say at 3 o'clock she was going at six knots; if you stopped the engines, at 3:03 she would drop down to three knots?

A. I do not know exactly; that is my opinion.

Q. That is all you have given an opinion as an expert?

A. I want to explain. This is not mathematical. That is only pressed out of my opinion; I have not considered this in my evidence at all before.

Q. You have not considered your evidence before?

A. I have not considered this before I came here, before you have commenced to press it out of me.

Q. You have had plenty of time since this morning, haven't you? [279—160]

A. I never thought about it.

(Testimony of Captain Olaf Lie.)

Q. How long will it take you to work that thing out, Captain? A. I could not work it out exactly.

Q. How long would it take you to clarify your mind on the subject?

A. I could not tell you how it would be exactly.

Q. I am not asking you exactly, I am asking approximately.

A. Approximately from it may be wrong.

Mr. McCLANAHAN.—You asked him exactly. His answer was approximately and then you appropriated his exact language.

Mr. DENMAN.—I have never appropriated his exact language. I have always taken his opinion as to what the speed was.

Q. Your best opinion, based on your knowledge of the ship is that at 3:03 she would have dropped from six knots to three knots; is that correct, or do you wish to change that?

A. No, I do not want to change it. In my opinion it is.

Q. That is based on your observation of the vessel from time to time?

A. No, it is not based on any observation at all.

Q. You never have observed the vessel when she was going through the water or calculated her speed?

A. Yes, I have.

Q. Well, you are able to tell at 3:10, that is you said here this morning, or yesterday, that she was going at 3:10 three knots.

A. About, according to the revolutions.

Q. You said four knots at another time and a

(Testimony of Captain Olaf Lie.)

standstill at another time.

A. I did not say she was at a standstill.

Q. Nearly at a standstill.

A. I did not say she was at a standstill.

Q. Well, you read it to the crew in that way, nearly at a standstill. Now suppose she goes at the rate of, an average rate of, [280—161] five knots in dropping from six knots to three knots between 3 and 3:03—you estimate that she would cover what?

A. 1,518 feet; that is what I said.

Q. During that time. Now, suppose you continued at a three-knot speed for 12 minutes, up to the time of the collision, what ground would you cover?

A. If I kept on?

Q. At three knots speed up to the time of the collision, what ground would you cover?

A. Let me see. I should say—well, I could not say exactly how much she would travel. It is impossible for me to say it exactly.

Q. Take your ship for 12 minutes at three knots an hour, what space would you cover?

A. We would cover half-mile in 10 minutes.

Q. Well, 12 minutes, what would you cover; calculate that, can't you? A. Yes.

Q. That is an exact matter. Calculate it.

A. All right. If she continued at three knots, it would be about 3,650 feet. That is what it would be if she continued at three knots.

Q. If you add that to the 1,518 feet that you covered between 3 and 3:03, you would have how many

(Testimony of Captain Olaf Lie.)

feet. Add it up, please; how many feet would that be.

A. It would not be that because I don't base the calculation that way.

Q. I am not asking you that. Just make the calculation. A. That is 5,168 feet.

Q. So if you had stopped your engines when you first heard the whistle and dropped your speed to three knots an hour, and had continued at the rate of three knots an hour up to the time of the collision you would have covered 5,168 feet; is that correct?

A. I do not think it is exactly correct, no, sir.

Q. How much is it out of the way?

A. Well, it may be 100 or 200 [281—162] feet, I would not say—a ship's length perhaps. That is hard to say.

Q. It would be perhaps 200 feet out of the way?

A. Maybe a ship-length.

Q. So the maximum would have been 5,350 feet?

A. I could not say what it would be at the utmost out.

Q. Would it have been 5,500 feet?

A. I tell you I could not say exactly.

Q. I am not asking you exactly. I am asking you whether it would have been 5,500?

A. It may be 6,000.

Q. It may be 6,000. A. Yes.

Q. All right. I mean now, that is your way of calculating it. That is your method of calculation, may be 6,000?

A. I have not calculated that before.



(Testimony of Captain Olaf Lie.)

Q. Well, now calculate it. Sit down and take your time about it and calculate it. You have six knots speed at 3 o'clock, you stop your engines until she drops to three knots, and then you continue at 3 o'clock until the time of the collision, how many feet would you cover? Let me ask you first: That is a no more complicated transaction than the estimates you have given here on the chart, is it?

A. It is a little more, because it is stopped there.

Q. But you did stop the engine in making this up, so you have a knot. A. Stopped at the last.

Q. You stopped it. The both calculations require the stopping of the engines; that is correct?

A. Yes. But we didn't continue after stopping the last time. Here you continue.

Q. Here we continue to have a fixed rate. There is no difficulty in calculating a three knots an hour speed, is there?

A. Well, the only thing I can say about this is it may be a ship length or two out. [282—163]

Q. Then 5168 feet may be a ship-length out; is that correct? A. A ship-length or two.

Q. Why two ship-lengths? You have no question about what you would go between 3:03 and 3:15, have you?

A. I do not know what she might have in her when I commenced the engines again.

Q. You said at 3:04, in your opinion, she would have lost the six knot speed.

A. That is, if she continued at half speed after she was reduced—

(Testimony of Captain Olaf Lie.)

Q. But your opinion is she would lose her six knots speed at 3:03 and drop down to three knots?

A. Well, probably, I would not say for sure.

Q. But you think—that is your opinion and statement?

A. I said it might be my opinion—that is not based upon the records.

Q. And you calculate in that time she would run 1518 feet. That is a liberal calculation. That is taking a five knot speed, isn't it? A. Yes.

Q. That is a liberal calculation, isn't it?

A. Well—

Q. You said  $4\frac{1}{2}$  or 5; we took five, your highest figure. That is correct, isn't it?

A. That is only three minutes.

Q. In three minutes the average speed of five knots for three minutes in dropping from six knots to three knots; that is what you said, is it not?

A. Yes.

Q. That is the most liberal figure you gave, five?

A. Yes.

Q. So that 1518 is a liberal figure, according to that theory, from 3:00 to 3:03?

A. Well, it is within a ship length or so, or two. I would not say exactly. This is not exact.

Q. Well, now, you made a similar calculation between 3:05 and 3:10, didn't you, on this estimate that you have given here on the chart? [283—164]

A. I had to put something down on that chart. Now, I will explain exactly how I did that. I summarized that to be one knot, and then I took one-

(Testimony of Captain Olaf Lie.)

third of it for the last five minutes and two-thirds of it for the first five minutes, and that would be not exactly 1015 feet, but it was 1013 feet; and then I took the 1015—I think I said the 1015—and deducted that from the balance, and I got the distance she run from 3:05 to 3:10; that is the way I did that.

Q. Let me ask you; you say that is the way you did it. Why did you calculate the first five minutes when you were going at a fixed rate? You were going during the first five minutes at the fixed rate of six knots an hour, weren't you? A. Yes.

Q. Then why did you include that in your calculation? Why didn't you *calculation* from 3:05 to 3:10 at six knots?

A. I took it a little over three or one-third of the distance, really, more from 3:05 to 3:10 than I took from 3:10 to 3:15. That is my interpretation.

Q. Let me see. You know what you went from 3 to 3:05? A. Yes.

Q. That is a fixed, definite ascertainable amount?

A. Yes.

Q. So that the only thing you were in doubt about on this thing was between 3:05 and 3:15; that is correct? A. Yes.

Q. There was no *reason take* a knot and divide it into three compartments, was there, when you knew that the first amount was an accurate figure of 3,000 and some odd feet?

A. I did not take it from; I took it from 3:05.

Q. You took it from 3:05? A. Yes.

Q. You assume that you ran a knot between 3:05

(Testimony of Captain Olaf Lie.)

and 3:15? A. No—that is half a knot.

Q. You assume that you ran half a knot?

A. Yes. [284—165]

Q. Between 3:05 and 3:15?

A. Yes, half a knot.

Q. You assume that? A. Yes.

Q. You did not divide it up into three parts as you suggested a few minutes ago?

A. I did. I will do it for you and you can see if it is correct.

Q. I am now trying to get at your mental process, Captain. I am trying to come into your field.

A. Yes.

Q. Now, why was it you stopped your engines at 3:10? Didn't you think it was safe to go on with your engines at that time?

A. No, sir. I made up my mind that it was a steamer approaching, and I had also ascertained the course of her as near as can be, and the bearing did not seem to change to me.

Q. Do you mean to say that you ascertained her course accurately? A. No; approximately.

Q. Well, how can you say approximately? You knew she was crossing your bows then?

A. Well, the bearing kept about the same; it did not broaden.

Q. Did you know she was crossing your bow at that time? A. Well, she must have.

Q. You know that at what time—at 3:10?

A. Yes.

Q. You think she was then crossing your bow now.

(Testimony of Captain Olaf Lie.)

Is that correct, Captain?

A. I had made up my mind that she did not broaden enough on my bow for me to proceed and therefore I stopped the engines.

Q. But you did not know exactly then what her course was, did you?      A. Not exactly, no.

Q. You did not know it within a couple of thousand feet, did you, where her course was going to cross yours?

A. I said I did not [285—166] know where it was going to cross.

Q. Did you know at 3:12 where her course was going to cross yours?      A. No, I did not.

Q. Did you know at 3:13 where her course was going to cross yours?      A. No, I did not.

Q. So that as a matter of fact you really did not have that vessel located, as to where she was in the water, at 3:13; is that correct?

A. Her bearings seemed to be the same, but she broadened a little bit.

Q. Repeat the question.

(The last question repeated by the Reporter.)

A. I did not locate exactly where she was, but I knew she was a good way off—I could see about two ship-lengths, and my vessel was not moving very much ahead, so I was sure that as soon as she loomed up I could manage to get out of her way easy, if she was coming at the same navigation, at the same rate of speed.

Q. Now, Captain, you said something in your direct examination about going to the side of the vessel from time to time; do you recollect that?



(Testimony of Captain Olaf Lie.)

A. Yes.

Q. Between 3 and 3:05? A. Yes.

Q. Between 3:10 and 3:10—do you recollect that?

A. Yes.

Q. Do you recollect being in Mr. McClanahan's office when the deposition of the officer on the bridge in charge was taken? A. Yes, sir.

Q. Do you recollect his testifying that you never went to the side of the vessel but that you stayed within five feet of the whistle cord during the entire time between 3:10 and 3:15?

A. He didn't measure the feet I went off.

Q. I will repeat the question. Just listen to me and do not give [286—167] your theories, Captain, and we will get along more satisfactorily. Read the question.

(The last question read by the Reporter.)

Mr. McCLANAHAN.—I will have to object to that question on the ground it is not a proper statement of what the man testified to. My recollection is he did not mention that the Captain stayed within five feet. That is my impression of what the evidence is.

Mr. DENMAN.—I have a different impression. I will read the testimony to the Captain as I have it here.

“Q. And the captain was right by the telegraph where he could give any signal he wanted to? A. Yes, he was right there.

Q. He stayed right there up until the reversing signal was given? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. He did not move away from there?

A. No, sir.

Q. So he would be able to give a quick warning if it was necessary? A. Yes, sir.

Q. You are sure of that?

A. I am absolutely sure of that.

Q. That was up to 3:15 when the reversing signal was given?

A. I did not look at the clock at the time of the reversing.

Q. I mean up to the time the reversing signal was given. A. Yes, sir.

Q. He was not away five feet during that time? A. No, sir.

Q. So he could be right there and give his command, if necessary?

A. Yes, he was right there.

Q. You signed this log on the 23d, didn't you?

A. Yes, sir."

Do you remember that testimony?

A. Well, I recollect that he said so now.

Q. You were in the room at the time that testimony was given? A. Yes. [287—168]

Q. And the libelant in the case? A. Yes.

Q. And that testimony was taken in the morning?

A. I do not remember exactly.

Q. It was, as a matter of fact,—the case was resumed in the afternoon. You had testimony both in the morning and afternoon, didn't you?

A. Yes, but I did not have any intention to object to their answers.

(Testimony of Captain Olaf Lie.)

Q. This is your own case, you were suing in the case yourself, were you not?

A. Yes, but it didn't make *make* any difference what he said. I know I moved away from the telegraph.

Q. You heard him testify that at that time, didn't you? A. Yes. You pressed him to say so.

Q. There is no cross-examination by the other side indicating— A. Well, I know—

Q. (Contg.)—it was an improper question.

A. I know. I was listening, and he did not think seriously so; he wanted to be finished; he didn't say I didn't move—he didn't measure the feet in his head.

Q. I am glad to have your explanation of it now.

A. The explanation?

Q. I am very glad to have it; it is in the record. Now, do you think, Captain, that under any circumstances it would have been safe to have run that vessel at a three knots speed at 3:12 on that day?

A. Yes, I think so.

Q. Under the circumstances as they were?

A. 3:12? No, I did not run the engine then; she was stopped then.

Q. And you do not think it would have been safe to run the engine at 3:12, do you?

A. I call it good seamanship to do so, because I did not have the slightest idea or thought of a collision [288—169] at that time.

Q. At 3:12? A. No, sir.

Q. You stopped your engines at 3:10?

(Testimony of Captain Olaf Lie.)

A. I did because I heard the steamer approaching and I wanted to see that, if she loomed up right ahead of us—I wanted to be sure that I was not running too far.

Q. I mean you would not have felt safe to have been running at three knots at 3:12, you would not have felt safe in doing it under those circumstances?

A. No, I would not have felt safe.

Q. Now, Captain, how many feet would you make a minute at the rate of three knots an hour?

A. About 300 feet.

Q. About 300 feet a minute?      A. Yes.

Q. Now, as I understand it, you say that your figure between 3 and 3:03 of 1518 feet is correct within one or two ship-lengths. How much is a ship-length?      A. It is one-sixteenth of a mile.

Q. How much in feet?      A. 380 feet.

Q. So when you had 1518 feet, you say it might have been as much as 1800 feet between 3 and 3:03. Is that correct?

A. Well, the feet, I have not commenced to measure, but I had to put something down on this—

Q. I am not talking about that. Now listen. I am talking about this; suppose that at 3 o'clock you stopped your engines going at six knots speed, and at 3:03 she has gotten down to three knots.

A. I do not know exactly.

Q. And you calculate that during that time she covered 1518 feet, but she might be a ship-length off, is that correct?

A. That is correct. I could not say exactly.

(Testimony of Captain Olaf Lie.)

Q. Is that a correct statement of your theory?

A. About.

Q. So that it would make it 1900 feet that she would have gone [289—170] as a maximum allowing your five-knot rate between 3 and 3:03, and allowing a ship-length for good measure; that is correct, is it not, about?

A. About. I do not know exactly what it would be.

Q. Now, suppose from there on you ran, from 3:03 until 3:12, at a three knot speed, how many feet would you cover between 3:03 and 3:12?

A. I would say about 3000 feet.

Q. 2700 feet?

A. If it was down to three knots at 3:03, it would be.

Q. You base your five knots speed between 3 and 3:03 on the basis of being down to three knots.

A. Say, 2700 feet, about.

Q. Now, what would be the total number of feet covered between—presuming you proceeded at that rate—3 o'clock and 3:12?

A. That would be about 4600 feet, I should say.

Q. And that includes an allowance of a ship-length for good measure, don't it? A. Well, about.

Q. And if you were to allow another ship-length for good measure it would be about 5000 feet, would it not? A. Yes, sir.

Q. That is about all the ship-lengths you want to allow for good measure, isn't it?

A. I should say that.



(Testimony of Captain Olaf Lie.)

Q. Captain Lie, who was the charterer of the "Selja" on this last voyage?

A. Portland Asiatic Steamship Company.

Q. And to whom did you report after the wreck, after you came on shore?

A. I went into the Norwegian Consul first and entered a protest and at 11 o'clock the same morning I went up to Mr. Frey, the assistant manager.

Q. Did you tell Mr. Frey about the details of the accident, what had occurred?

A. I don't think I did. I don't remember I said anything.

Q. You say you came in after having the wreck and talked with [290—171] the manager of the company that chartered your vessel and did not tell him anything about the wreck?

A. Yes, he asked me—that is right—he asked me about if I was in the trough of the sea, and if the "Beaver" was on the crest. I remember that. And I said—well, I don't really remember what I said, but I think I said she might have been in the trough of the sea.

Q. Do you recollect that his clerk was there present at the time of this conversation?

A. I did not pay any attention. I saw a typewriter there, yes.

Q. Now, do you recall stating that at that time you had been lying there at a standstill for ten minutes, in the trough of the sea?

A. No, sir, I did not say that at all; I am sure of it.

Q. Now, do you recollect when you came off your

(Testimony of Captain Olaf Lie.)

ship and came on to the "Beaver," after the arrival on the vessel, going up on the bridge and talking with Captain Kidston? A. Yes, I do.

Q. Do you recollect that there were two other officers present there?

A. Well, I saw one officer. That is all I saw. And I saw a man at the wheel.

Q. Do you recollect having a conversation with him regarding the occurrences prior to the collision?

A. I don't remember a thing—the only thing he said was, that "there is Point Reyes"; that is what he said to me; he pointed; we could see Point Reyes, although he was under full speed backing, her engines were going full speed back—and he said "there is Point Reyes." And then he said, "I cannot help it that I put you out of command, Captain."

Q. Do you recollect at that time stating that you had been lying for over ten minutes at a standstill rolling in the trough of the sea?

A. No, sir, I did not. [291—172]

Q. Do you recollect stating at that time that you recognized the whistle approaching you as that of either the "Beaver" or the "Bear," you having become familiar with those whistles from hearing them in Portland?

A. I did, after I stopped my engines, yes.

Q. Do you recollect stating that for 15 minutes you knew he was coming?

A. No, I did not say that, I am sure of it.

Q. Now, do you recollect calling on Mr. James K. Bulger, or calling at the office of the United States

(Testimony of Captain Olaf Lie.)

Inspectors on the morning of Friday, November 25th?

A. Yes—I did not know who it was—of course I don't know exactly.

Q. Do you recollect stating at that office, amongst other things, that you had been lying at a standstill for 10 minutes prior to the collision and rolling in the trough of the sea?

A. I never said so, because I am sure she did not roll. I had a cup of coffee on the back of the bridge which was served to me after 3 o'clock, and that stood there where it was. I never said she rolled; she did not roll at all.

#### Redirect Examination

Mr. McCLANAHAN.—Q. You have been asked to bring here a chart, which is the chart made early in December, and from which you copied or which formed the basis for your chart which is introduced here as Libelant's Exhibit 1. Have you got that chart with you?

A. Yes; there it is (handing).

Q. In what particular does that chart differ from the chart which is introduced in evidence as Libelant's Exhibit 1?

A. In the "Beaver's" speed from 3:10 to 3:15.

Q. What is the difference?

A. The difference is 400 feet. [292—173]

Q. Well, I mean what is there on Libelant's Exhibit 1 which is not on this chart?

A. This chart is based upon that the "Beaver" was going at 84 revolutions, or 83, up to 3:10, and

(Testimony of Captain Olaf Lie.)

from 3:10 she slowed down to 76 then.

Q. I find on Libelant's Exhibit 1 a notation of the position of the "Beaver" at 3:13½, and I do not find that on your chart that I am examining you on. Why is it not there?

A. That is according to the language of the libel.

Q. What libel?

A. The libel of the "Beaver."

Q. What libel? A. The first libel.

Q. Which is according to the language of the first libel?

A. 3:13½, which was put in the libel as the first time that the "Beaver" heard the "Selja's" whistle.

Q. 3:13½? A. 3:13½.

Q. That information you did not have when you drew this chart which I am examining you on?

A. No, sir.

Q. Is that the only difference between the two maps?

A. I think so. Of course; of course it may be a little different—I did not lay this on top and copy it. I took the bearings on it, and that is all. I took the same bearings, you see, and put them on that chart.

Mr. McCLANAHAN.—I introduce this map which the captain has identified as the one from which Libelant's Exhibit 1 was taken, and ask that it be marked Libelant's Exhibit 12.

(The map is marked Libelant's Exhibit 12.)

The WITNESS.—I want to say that on this chart—

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. (Intg.) What are you pointing to now, when you say “this chart”—Libellant’s Exhibit 12?

A. Yes, Exhibit 12.

Q. Is that what you are pointing to? [293—174]

A. Yes, I put on the course according to Captain Kidston’s evidence, to take him two and a half miles off Point Reyes, which is about 3/16ths of a mile outside of the collision given by me,—the point of collision given by me. And also I have figured that that is not correct. That is only loosely according to the other chart about the 30 fathom curve of it, what it ought to be, but that is not correct.

Q. That isn’t on the other chart, the 30 fathom?

A. No, sir.

Q. You just drew it in here?

A. This dotted line. I was sitting home and did not think much of it.

Q. You are now pointing to a dotted line on Libellant’s Exhibit 12? A. Yes, sir.

Q. And that is what you refer to as the 30 fathom curve? A. About. I don’t say that is correct.

Q. Captain, suppose that half speed is six knots, and you ring up a slow bell, what would you say, if you were asked the question, that the speed of the “Beaver” was under the slow bell,—if you were ignorant of her revolutions?

A. You said “Beaver.”

Q. I mean “Selja.”

A. Well, I would say probably 3½ to 4 knots.

Q. Under the same conditions, what would you say



(Testimony of Captain Olaf Lie.)

the speed of the "Selja" was if you knew that at six knots her engines were making 40 revolutions, and at slow she was making 20 revolutions?

A. She would make the same, provided the slip was the same; it could not be anything else.

Q. I do not think you have answered my question. Having the revolutions, if you knew the revolutions under the same conditions, and you knew that at half speed she was making 40 revolutions, what would her speed be if the revolutions were 20?

A. Three knots. [294—175]

Q. Three knots? A. Yes.

Q. Now, Captain, let us assume that a vessel is on a fixed course, that while on that fixed course you have the bearing of a sound or light. You proceed on that fixed course for a certain length of time, and you again take the bearing of that fixed light or sound; you also know the distance that you travel between the times that you have taken the first and the second bearing. Is there any other data that you must have in order to mathematically fix with exactness the distance that that sound or light was from the first bearing and from the second bearing, respectively? A. No, sir.

Q. If on your course of south 60 east the bearing of the Point Reyes siren at 2:30 was east by north, and 2:50 it was north 30 degrees east, and the distance run by the "Selja" from 2:30 to 2:50 was two knots, found so from being logged, is there any other data required to determine the distance the "Selja" was from the siren at 2:30 and 2:50 respectively? A. No, sir.

(Testimony of Captain Olaf Lie.)

Q. Can that distance from that data be determined with mathematical certainty?

A. Yes, sir.

Q. Now, if the bearing of the Point Reyes whistle was found at 3 o'clock to be due north magnetic, did that bearing prove or disprove the bearing which you had taken at 2:30 and 2:50, respectively?

A. It would prove the correctness of it.

Q. It would prove the correctness of it?

A. Yes.

Q. If you found the whistle bearing due north at 3 o'clock, would that bearing prove or disprove the distance the sound was from the "Selja" at 2:30 and 2:50 respectively?      A. No, sir.

Q. Would it prove or disprove it?

A. I said no. It would just [295—176] corroborate the correctness of it.

Q. Your answer is it would prove the correctness of the distance?      A. Yes.

Q. Captain, in your giving us the Norwegian interpretation of rule 16, I notice that you left out the word "apparently" and put it in the American rule. Was that an inadvertence?

A. That is wrong, because it is in the Norwegian rule.

Q. The word "apparently" is in the Norwegian also?      A. Of course it is in the Norwegian rule.

Q. That is what I am trying to get at. So that the only difference between the rules would be the word "surely" or "definitely"?

A. Yes, that is all.

(Testimony of Captain Olaf Lie.)

Recross-examination.

Mr. DENMAN.—Q. Now, Captain, you say that if you have the whistle bearing and distance travelled, that is the whistle bearing from a fixed point and distance travelled, you can determine the distance from the fixed point. That is correct, is it?

A. If I had the two bearings and the distance run between them, yes.

Q. That, of course, is based upon the accuracy of the transmission of the sound through the fog, isn't it?

A. That is based upon the sound only; we do not take any other bearing than the sound.

Q. That is based upon the accuracy with which that sound travels through the fog, isn't it?

A. Yes.

Q. And it is based on your theory that the sound always travels accurately and straight through the fog, straighter and faster than it does through the clear air; that is correct, is it?

A. I do not know if it goes any faster; but I never found it to go anywhere else but straight. [296—177]

Q. It is based on your theory, is it? A. Yes.

Q. Now, on the chart, on the United States that you have here, and which was the basis of your calculations prior to using exhibit 1, you say that if at 3 o'clock you were in the place you thought you were and as described on exhibit 1, you could not possibly have had 35 fathoms of water, as far as that chart shows; that is correct, isn't it?

(Testimony of Captain Olaf Lie.)

A. If that bearing is taken right—

Q. (Intg.) I am asking you now.

A. Was that at 3 o'clock you asked?

Q. 3 o'clock.

A. No, it does not show 35 fathoms, if I said a mile between the two bearings.

Q. So that if the position then at 35 fathoms of water on the chart be correct, you could not have been where this chart, exhibit No. 1, shows you were?

A. Not exactly, but that there is not based upon anything of the evidence given before anybody; it is based on the first bearing—

Q. What is that?

A. It is based on the two bearings I took first and the bearing taken by the first officer.

Q. But these observations do not fit in to the observation giving you a sounding of 35 fathoms at 3 o'clock, do they?

A. No, it does not fit in to that.

Q. Now, do they fit in with a series of soundings from 2:50, including 2:50 to 3:10, all of which were 35 fathoms—does it fit into that?

Mr. McCLANAHAN.—I object to that question as not proper recross-examination, as a matter gone into on cross-examination and gone into thoroughly.

A. I can make it fit if I take a quarter of three-eighths of a mile further out.

Mr. DENMAN.—Q. Well, if you take a quarter of three-eighths [297—178] of a mile further out, will you then get the distance between your bearings that you claim you had?

(Testimony of Captain Olaf Lie.)

A. Not exactly, but I do not think it would be very much out.

Q. It would be a good deal out, would it not?

A. Well, I don't know exactly how much it would be out.

Q. It would not fit at all, would it?

Mr. McCLANAHAN.—I object to that,—

A. It would not be very much out.

Mr. DENMAN.—Q. All right. Just draw it. Take the large chart.

A. I will take this chart.

Mr. McCLANAHAN.—Q. Do you know what you are going to do?

A. I know exactly. (Witness illustrates.)

Q. Now, what have you got there? Mark it.

A. This is at 3 o'clock.

Q. About 3 o'clock there.

A. There is 3 o'clock, and there is 2:50 (pointing).

Q. Run an arrow down.

A. There is 2:30 here. That is marked 4. Now I will take the last bearing. I have got to take a mile instead of that bearing. She travelled practically a mile. Now we will take the bearing; it is south 21 degrees east of Point Reyes; two and three quarters of a mile.

Q. What is it? A. Off.

Q. At what time?

A. That is at the time of the collision.

Mr. DENMAN.—Q. Now, Captain, is the point marked "3 o'clock" in 35 fathoms of water?

A. It does not say anything there.



(Testimony of Captain Olaf Lie.)

Q. That is, I mean to say, what is it between?

A. It is 34 and 30.

Q. Between 34 and 30 fathom marks, is it not?

A. Yes.

Q. Is that what you call 35 fathoms?

A. I have got to stick to [298—179] the other bearings.

Q. I am not talking about the other bearings. Is that what you call 35 fathoms?

A. No, it is not thirty-five fathoms; it may be.

Q. Is that the way you read those charts?

A. I have got to go—

Q. I say is that the way—

Mr. McCLANAHAN.—Let him answer the question. Finish your answer, Captain.

A. I have got to have the soundings which was before, I can't rely upon the first.

Mr. DENMAN.—Q. I am not asking you about that. I am asking you about that one sounding at 3 o'clock that you have marked there.

Mr. McCLANAHAN.—He says he cannot answer the question without taking the soundings into consideration.

Mr. DENMAN.—He can answer if you do not interrupt with your remarks.

Q. I asked you as to that sounding. Does that show 28 fathoms on the chart?

A. It does not exactly.

Q. It is inside the 34 fathom mark, isn't it, and between that and the 30 fathom mark?

A. Yes—but anybody who has taken soundings

(Testimony of Captain Olaf Lie.)

there—it does not appear and nobody can swear what it is.

Q. I am simply asking you as to it here. Now, at the point of collision, how far are you from the 35-fathom mark, according to this calculation?

A. From the nearest 35-fathom mark upon the chart?

Q. This is 35 fathoms off here. How far was the ship from the nearest 35-fathom mark, about half a knot isn't it? A. About half a knot.

Q. And that is between the 30-fathom mark and the 34-fathom [299—180] mark, isn't it?

A. It is. Let me explain again: nobody can tell what the depth there is.

Q. That is your theory of the case. Now, you recollect, Captain, that you said before the Inspectors that the way you found where you were was by checking off your various soundings as you passed Point Reyes? A. Yes.

Mr. McCLANAHAN.—I object to this line of examination as improper recross-examination. I do not think I mentioned the word “sounding” in my redirect examination.

Mr. DENMAN.—But you did mention, of course, where she was by whistle bearings. Repeat the question.

(The last question repeated by the Reporter.)

A. Yes.

Q. And you now say that you make your calculations entirely by whistle bearings; is that correct?

Mr. McCLANAHAN.—I object to that as not a

(Testimony of Captain Olaf Lie.)

proper statement of what the witness said.

Mr. DENMAN.—I am asking what he said.

Mr. McCLANAHAN.—No, you assume he said it.

A. That corresponds as near as I could get it on the chart I had with the bearings given by the first officer—no. It corresponded with the bearing—I mean to say that the distance run between the two bearings corresponded with the depth given to me by the first officer.

Mr. DENMAN.—Q. Now, Captain Lie, pursuing recross-examination, you stated that if you had known how much the vessel was logging at half speed, you would have said—that is, if you knew how many revolutions she was making, you could figure more accurately than [300—181] you could if you simply rang down the signal. When you give a signal to the engine-room for half speed, how many revolutions do you expect to get?

A. Well, I do not know exactly; that depends; it may be 60; it may be 55. I do not know.

Q. May be 60 or 55?

A. At half speed it may be 40 or it may be 45. I do not mean the other, because 65 is full speed. I did not mean that, I was wrong there. I mean that half speed is generally 40 to 45.

Q. But you did know, didn't you, when you made your calculations that day—

A. (Intg.) That was given to me—

Q. (Contg.) Wait a minute. You did know when you made your calculation that day—

A. (Intg.) No, sir.

(Testimony of Captain Olaf Lie.)

Q. (Contg.) Wait a minute. You do not know what I am speaking of. You did know when you made your calculation on that day off Point Reyes that she was logging under half speed at the rate of six knots an hour, didn't you? A. Yes, sir.

Q. When you went slow speed it was presumably half of that, was it not?

A. No, sir. I should say that slow speed is generally little more than half of it. The telegraph does not show the revolutions.

Q. It does not show the revolutions?

A. No, sir.

Q. Could it be less than that?

A. No, I do not think it could be less, although I do not know. I said that the speed is generally three and a half knots to four knots, but it may be less, sometimes.

Q. So that when you gave the order to go at half speed at 3:05 you might have been making four knots an hour under your theory—you might have been?

A. Yes.

Mr. HENGSTLER.—I would like to ask one or two questions of [301—182] the captain.

Q. Captain, when you navigate your vessel in a fog, what rules do you use in your maneuvers?

A. I ring the telegraph. Do you mean the telegraph?

Q. No. What rules of navigation do you use?

A. I use the International Rules.

Q. Do you use the Norwegian version or the English version of the International Rules?

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Let me understand the position of the examiner. Do I understand he is now examining Olaf Lie as the libelant in his case?

Mr. HENGSTLER.—Yes—in all the cases. The cases have been consolidated, I understand. There is no distinction. I simply want to find out the facts.

Mr. McCLANAHAN.—I understand the situation, but I want to know your attitude towards the witness, whether it is that of his counsel or whether it is that of an antagonist.

Mr. HENGSTLER.—No. My attitude towards the witness is as proctor for the libelants in one of these libels; I am trying to find out what the facts of the case are.

Mr. McCLANAHAN.—I want to know so that I can object to leading questions.

Mr. HENGSTLER.—I think it makes no difference whether I am Captain Lie's counsel or opposed to him, as long as—

Mr. McCLANAHAN.—I would like to know about this. It makes a difference on the ground whether I object to your questions, or not.

Mr. HENGSTLER.—All I want to know is the facts. [302—183]

Mr. DENMAN.—I would like to know about this. Let me ask Mr. Hengstler a question: Do I understand that Captain Lie is your client on his own behalf or merely as trustee for certain cargo owners?

Mr. HENGSTLER.—Captain Lie is not my client. He is simply appearing in my suit as bailee or trustee for my clients. I am not representing him person-



(Testimony of Captain Olaf Lie.)

ally in any way.

Mr. McCLANAHAN.—The same capacity that he appears for me.

Mr. HENGSTLER.—I do not know in what capacity he appears for you.

Mr. McCLANAHAN.—He is representing the ship.

Mr. HENGSTLER.—I know in what capacity he appears for me.

Mr. DENMAN.—Mr. McClanahan, are you not suing for Captain Lie's personal losses?

Mr. McCLANAHAN.—Yes, and he is also suing as the representative of the shipowners, as he also is suing as representative of the cargo owners.

Mr. DENMAN.—As I understand it, then, if the cargo interests and the ship interests should be antagonistic, that Mr. Hengstler, as far as we are concerned, is the representative of the cargo.

Mr. McCLANAHAN.—I cannot understand how Mr. Hengstler is prejudiced in this case by the winning or the losing of either side.

Mr. HENGSTLER.—That is a question which will appear later.

Mr. McCLANAHAN.—A question of law?

Mr. HENGSTLER.—Which I do not care to state at the present time; it is a question of law.

(The last question read by the Reporter.)

A. The Norwegian. [303—184]

Mr. HENGSTLER.—Q. Captain, do you remember the Norwegian version of the rule which you followed in this case when you heard a whistle for-

(Testimony of Captain Olaf Lie.)

ward of your beam in the fog?

Mr. McCLANAHAN.—I object to that question as being immaterial, irrelevant and incompetent, what the Norwegian version of it is. The case is to be decided on the American version.

A. In answer to that, I know the rules of the road but I cannot place it in the paragraph. I know what to do when I heard the whistle.

Q. At the time when you hear this whistle you follow the Norwegian rule? A. Yes.

Q. In the Norwegian version, do you not?

A. Yes.

Q. What is that rule in the Norwegian version? Can you write it out for us, Captain? A. Yes.

Mr. McCLANAHAN.—You mean the Norwegian of it?

Mr. HENGSTLER.—Yes. I would like to have it written out.

Mr. McCLANAHAN.—Do you want the whole rule?

Mr. HENGSTLER.—Just the second part of the rule, Captain.

Mr. DENMAN.—Q. Captain Lie, you have handed me certain data concerning the problems you have worked out here. A. Yes.